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EFFECTING THE CONTROL OF NARCOTICS, BARBITURATES, AND DANGEROUS DRUGS IN THE DISTRICT OF COLUMBIA

JUNE 7, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCMILLAN, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany H. R. 11320]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 11320) to amend certain laws effecting the control of narcotics in the District of Columbia, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

1. On page 8, following line 21, insert the following:

SEC. 102. This title shall take effect thirty days after the date of its enactment.

2. On page 9, line 2, after the word "DRUGS" insert the following: "OTHER THAN NARCOTICS".

3. On page 9, line 7, after the word "means" strike lines 7 through 14 inclusive and insert in lieu thereof the following:

(A) amphetamine, desoxyephedrine, or compounds or mixtures thereof, including all derivatives of phenelethylamine or any of the salts thereof which have a stimulating effect on the central nervous system, except preparations intended for use in the nose and unfit for internal use;

4. On page 10, line 1, strike the words "harmful or to have a" and insert in lieu thereof "habit-forming, excessively stimulating, or to have a dangerously toxic, or".

5. On page 10 strike the following:

(D) any drug which bears the legend: "Caution: Federal law prohibits dispensing without prescription", or words of like import, or any derivative, compound, or mixture thereof;

6. On page 11, line 7, before the word "pursuant", insert as a pharmacist".

On page 11, line 11, strike out "(including amphetamines and barbiturates)".

8. On page 12, line 10, after "pharmacists", insert "and practitioners".

9. On page 12, line 13, after "process", insert ", or who repackage such drugs".

10. On page 13, line 4, strike out "for" and insert in lieu thereof "of".

11. On page 13, lines 11 and 12 strike out "(including amphetamines and barbiturates)".

12. On page 13, line 19, strike out "filed" and insert in lieu thereof "filled".

13. On page 15, lines 11 and 12, strike out "(B), (C), or".

14. On page 16, lines 13 and 14, strike out ", (including amphetamines and barbiturates)".

15. On pages 16 and 17, strike out "SEC. 204" and insert in lieu thereof the following:

> SEC. 204. Nothing in this title shall apply to a compound, mixture, or preparation which is delivered or acquired in good faith for the prupose for which it is intended and not for the purpose of evading the provisions of this title if—
>
> (1) such compound, mixture, or preparation of barbituric acid, its salts and derivatives shall be declared by rule or regulation duly promulgated by the Commissioners after reasonable public notice and opportunity for hearing to have or to contain no habit-forming properties and not to have a dangerously toxic or hypnotic or somnifacient effect on the body of a human or animal.
>
> (2) such compound, mixture, or preparation of amphetamine, desoxyephederine, phenelethylamine, or their salts or derivatives, shall be found and declared by rule or regulation duly promulgated by the Commissioners after reasonable public notice and opportunity for hearing to contain in addition to such drug or its salts and derivatives some other drugs causing it to possess other than an excessively stimulating effect upon the central nervous system and to have no habit-forming properties or dangerously toxic effect upon the body of a human or animal.

16. On page 17, strike line 18 and insert in lieu thereof:

> SEC. 205. The provisions of subparagraphs (1) (A) and (D) and paragraph (4) of.

17. On page 18, line 16, before the word "duties", insert "official" and strike "in enforcing this title".

18. On page 18, line 23, strike "to whom the provisions" and insert in lieu thereof "listed in paragraphs (A) through (I)".

19. On page 18, line 24, strike "are applicable".

20. On page 19, strike lines 1 and 2 and insert in lieu thereof the following:

> (1) make, within thirty days after the effective date of this title, and biennially thereafter, a complete

21. On page 19, line 3, strike "amphetamines and barbiturates" and insert in lieu thereof the following "dangerous drugs".

22. On page 19, lines 7 and 8, strike "(including amphetamines and barbiturates)".

23. On page 19, line 14, strike "practitioner", and insert in lieu thereof "practitioners".

24. On page 20, line 10, strike "Federal and".

25. On page 22, line 7, strike "and".

26. On page 22, line 10, strike the period and insert in lieu thereof a semicolon and the following:

> (5) the Act entitled "an Act to define the term of 'registered nurse' and to provide for the registration of nurses in the District of Columbia", approved February 9, 1907 (34 Stat. 837), as amended; and
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> (6) the Act entitled "An Act to regulate the practice of podiatry in the District of Columbia", approved May 23, 1918 (40 Stat. 560), as amended.

27. On page 24, following line 10, insert the following:

> SEC. 214. This title shall take effect ninety days after the date of its enactment.

28. On page 25, line 16, strike "in" and insert in lieu thereof "is".

29. Page 25, strike out line 24, and insert the following:

> section 6 of the Act of Congress approved December 17, 1914, entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes', as amended," and inserting in lieu

30. On page 35, lines 13 and 14, strike "Director of Public Health of the District of Columbia" and insert in lieu thereof "Commissioners of the District of Columbia, or their designated agent".

31. On page 36, following line 19, add the following:

> SEC. 304. Subsection 1 of section 301 of this title shall take effect thirty days after the date of its enactment.

32. Amend the title so as to read:

> A bill to effect the control of narcotics, barbiturates, and dangerous drugs in the District of Columbia.

The bill has three titles. The first title is a revision of the act of June 24, 1953, which provides for the treatment of users of narcotics in the District of Columbia. Title II contains the "Dangerous Drug Act for the District of Columbia." Title III amends the Uniform Narcotic Drug Act for the District of Colu nbia. It also amends the Public Health Service Act in respect to the hospitalization of drug addicts committed in the District of Columbia.

The bill was introduced to carry out certain recommendations made by the Senate Committee on the Judiciary, entitled, "Illicit Narcotics Problem in the District of Columbia."

The report of the Senate Committee on the Judiciary contains in great detail a discussion of the problems of drug addiction in the

District of Columbia, the need for additional legislation relating to the control of the sale of narcotics, the apprehension and treatment of drug addicts and the need for a law regulating the sale and possession of barbiturates, amphetamines, and other dangerous drugs. A portion of the Senate committee report is printed at this point.

[Pursuant to S. Res. 67 and S. Res. 166]

By Senate Resolution 67, adopted March 18, 1955, the Senate authorized the first nationwide investigation of the illicit narcotics traffic, including foreign sources, narcotic smuggling operations, drug addicts, and related matters.

The aim of the inquiry was to find "ways and means of improving the Federal Criminal Code and other laws and enforcement procedures dealing with the possession, sale, and transportation of narcotics, marihuana, and similar drugs."

The task was assigned by the chairman of the Senate Judiciary Committee to the Subcommittee on Improvements in the Federal Criminal Code, of which the junior Senator from Texas, Mr. Daniel, is chairman. Other members of the subcommittee are the Senator from Wyoming, Mr. O'Mahoney; the Senator from Mississippi, Mr. Eastland; the Senator from Idaho, Mr. Welker; and the Senator from Maryland, Mr. Butler.

INVESTIGATION IN THE DISTRICT OF COLUMBIA

Our most patent conclusion is that the narcotic problem in the District of Columbia is serious and tragic and expensive and ominous. It is recognized as a societal cancer, so to speak, which unless checked will continue its evil growth and encompass more and more people who will commit more and more crime and who will become, in the end, public charges at terrific cost.—Report of the Council on Law Enforcement for the District of Columbia, December 1955.

During its initial hearings into the illicit narcotics traffic, June 2 and 3, 1955, the subcommittee was surprised to learn from Federal law enforcement officials that only four States in the Union had more reported narcotic addicts that the District of Columbia. With 887 known addicts, as of June 2, 1955, Washington was far behind such cities as New York, Chicago, and Los Angeles, but on a population basis it led all other cities in the Nation in percentage of drug addicts compared with the general population. Even when we considered that the Metropolitan Police Department maintains a meticulous reporting system, and other cities may not report as faithfully, we were still confronted with the fact that police records showed an increase from 357 charges for narcotic law violations in 1951 as compared with 1,305 such charges in 1954. Moreover, in a count of the number of known addicts for the years 1953–54, Washington accounted for a greater number of drug addicts than Maryland, West Virginia, Virginia, and North Carolina combined. The total number of known addicts reported during 1953–54

in this area, comprising the fifth district of the Federal Bureau of Narcotics, was 1,214, with Washington having reported 719 of this total. By June 2, 1955, the number had increased to 887.

The addict population in Washington, 90 percent of whom are heroin addicts, was regarded as especially serious because of the fact that Washington is not a "dope center" in the sense that a port city or a border town might be; rather, Washington is primarily a consuming area, with New York serving as the principal source of the illicit drugs and marihuana reaching the area.

With these facts in mind, and with persistent reports that District police and prosecutors were badly handicapped by unduly strict, cumbersome, and—in some cases—even the lack of laws in their efforts to combat the narcotics menace in this community, the subcommittee scheduled full-scale hearings into the drug traffic in the District of Columbia.

Beginning with its initial hearing on July 12, 1955, the subcommittee conducted 8 days of open hearings, and numerous executive sessions, devoted exclusively to the local narcotics problem. We heard 37 witnesses, including Federal and District officials, and many active addicts and other narcotics violators, for a total of 1,108 pages of testimony. In addition, much information and many practical recommendations have been obtained through a series of conferences with Chief Judge Leo A. Rover of the Municipal Court of Appeals, formerly United States attorney, and his assistants; Mr. Oliver Gasch, present United States attorney; Commissioner Robert E. McLaughlin; Chief of Police Robert V. Murray, Capt. Todd O. Thoman, head of the narcotics squad, and Capt. John D. Layton, head of the morals squad, Metropolitan Police Department; representatives of the District of Columbia Department of Public Health, the Corporation Counsel's Office, the Board of Pharmacy, and the Washington Criminal Justice Association. The subcommittee has also profited from the report of the Special Committee on Narcotics to the Council on Law Enforcement of the District of Columbia, which is printed in its entirety in the appendix.

In addition, the subcommittee has carefully examined and benefited from the hearings and report of the Neely committee which conducted a thorough and painstaking study of crime in Washington during 1951 and 1952.

Special emphasis has been given by the subcommittee to an appraisal of the laws provided by Congress to determine whether they afforded the Nation's Capital adequate protection in:

1. Identifying and processing drug addicts to insure their treatment, rehabilitation or, if necessary, their quarantine-type isolation.

2. Detecting, apprehending, and successfully prosecuting drug peddlers and other narcotic law violators; and

3. Controlling the distribution and use of barbiturates, amphetamines, and other dangerous drugs.

The subcommittee was amazed to discover the weaknesses and the gaps in the statutes for the control of narcotics, marihuana, barbiturates, and other dangerous drugs in the District of Columbia. We have concluded that inadequate laws available to law-enforcement officials in Washington have made the Nation's Capital a veritable haven for drug addicts and narcotic violators. This is true, despite the fact that 250 to 300 narcotic violators have been arrested each year for the past 3 years through the almost heroic efforts of the local police and prosecutors who have worked so hard to apprehend and convict drug traffickers. The Nation has no finer group of law-enforcement officials than those in Washington, and we believe that in doing their work they deserve nothing less than the finest laws from the Congress.

The subcommittee hopes that its findings and recommendations will receive prompt and careful consideration during the present session of Congress.

Findings

I. DRUG ADDICTS

INADEQUATE LAWS, AND THE LACK OF LAWS, PREVENT LAW-ENFORCEMENT OFFICIALS FROM GETTING THE DRUG ADDICT OFF THE STREETS AND INTO HOSPITALS OR QUARANTINE-TYPE CONFINEMENT

Law-enforcement officials in the District of Columbia have emphasized what this subcommittee has found nationally, i. e. that addicts spread the drug habit to their families and associates with almost cancerous rapidity and, also, that they commit a large proportion of all crimes in order to get the money to support themselves and their addiction. This condition is even more serious here for, unlike many States, we have found that the laws in the District are not adequate to enable officials to get the drug addicts off the streets and into hospitals for treatment or into other quarantine-type facilities. Yet, this is the crux of the entire problem of narcotic control, for, in addition to spreading drug addiction socially through their personal contacts, 70 percent of the addicts are themselves "pushers" of dope. Addicts, free to mingle in public, are a major obstacle in stamping out drug addiction. They form the social contagion which creates new addicts.

New addicts, in turn, create the increased demand for illicit narcotics. And finally, the demand creates a magnetic market with exorbitant profits which attracts the most unscrupulous racketeers in the underworld as financiers and dealers in the illicit narcotic drugs. It is a vicious malignancy which neither Washington, nor any other community, can permit to exist. The subcommittee concludes that if Washington is to rid itself of the drug traffic, the first step must be the processing and confinement of all addicts who use

narcotic drugs illegally. We are of the opinion, however, that this cannot be accomplished with the laws currently on the statute books.

A. The addict law is lacking in sufficient controls to get the drug addicts off the streets

The weaknesses of the present addict law are most apparent when we realize that of approximately 900 known drug addicts in Washington, only 65 have been subjected to compulsory treatment under its provisions during the 2 years it has been in operation. It must be understood, of course, that the measure was initially enacted as experimental legislation and that, as such, it has been of great value in laying the foundation for an improved law. Our inquiry has found the law inadequate in three chief respects:

1. *Lacks control over the addict.*—The law does not provide for sufficient control over the individual once he is singled out for possible commitment as a drug addict. This lack of control was described to the subcommittee by Mrs. Kitty Blair Frank, assistant United States attorney, in these terms:

"To institute proceedings against an addict at large, the Government must petition the court for the physical examination of a drug user and obtain an order directing him to appear before the court * * * (In order to get the facts to put before the court, it requires) * * * an interview with the addict to obtain admissions as to his addiction and a cursory examination of his person for needle marks * * *.

"Unfortunately, when an addict is interviewed, examined and finds himself under police observation he is immediately put "on notice" that some action against him is contemplated and because of his very nature he seeks to hide. Even in the absence of purposeful evasion, though the Police Department once had him under control, that control is lost during the time needed to prepare the petition and obtain the necessary court order, because addicts, again, by their very nature, are drifters.

"Consequently, if the Government's petition is honored by the court and the addict is directed to appear, in a great percentage of the cases he cannot be further located.

"Next, even if the addict is found and served with the court order, he often merely does not appear as directed. Very often, and more often than not, the addict pays no attention at all to the court's order. They are just the type of people who do not obey a court order. This necessitates procuring an order for contempt so that he may be arrested and brought before the court. Still, the problem of locating the addict must be faced. In other words, under the statute as it now exists the Metropolitan Police officers who had accumulated the same information under which the Government proceeds on petition, had the addict within arms' reach and yet had no power to restrain him. In most instances, we have to go out and hunt for him.

"Although the United States attorney's office has had the full cooperation of the United States marshal's office, and

the narcotics squad of the Metropolitan Police Department, service has not been effective. We have had a great many dismissals because service could not be made due to the addict having moved, left town, or changed his location."

Addicts have also avoided compulsory treatment under the addict law by turning in at District of Columbia General Hospital just long enough to get themselves off drugs and to claim that they are not enough to get themselves off drugs and to claim that they are not "addicts" at the time personal service is made. In revealing this ruse by which addicts avoid commitment, Dr. John Schultz, chief psychiatrist, District of Columbia General Hospital, told the subcommittee:

"There is no question that part of the motivation (of addicts voluntarily seeking admission to District of Columbia General) was to escape the law. Many of the addicts, knowing that the narcotic group was interested in them, would apply for hospitalization. In fact, we had many of them come in just before they learned that they were about to be served, and in spite of the best efforts of the police—and we have cooperated, I think, very closely with them—this has been one of the ways in which they have avoided this, to me, ineffectual law. It has been one of the techniques of avoidance, that they will come in and put themselves in the hospital and get themselves off the drug, and therefore they are no longer a user of the drug at the time the service is finally made."

Important statistics confirming this technique for avoiding commitment are contained in the following memorandum which the subcommittee received from the Director of Public Health:

"MEMORANDUM

"FEBRUARY 8, 1956.

"To: Chief of Staff.

"From: Chief Psychiatrist.

"Subject: Statistics on drug addicts.

"Our records reveal that during the calendar year 1954, the total drug addict admissions to psychiatry was 138, of which 5 were juvenile.

"From our raw files, the following figures have been determined for the calendar year 1955.

Month	Voluntary	Court	Police	Total
January	23	4	0	27
February	9	3	1	13
March	16	2	2	20
April	11	5	0	16
May	9	3	1	13
June	11	6	1	18
July	10	1	0	11
August	24	1	3	28
September	13	3	0	16
October	14	2	0	16
November	23	2	0	25
December	11	3	0	14
Total	174	35	8	217

"There were 103 known addicts of opium derivatives admitted to psychiatry, District of Columbia General Hospital, in the calendar year of 1954. The figures presented thus represent a doubling of the admission rate for the category of patients in calendar year 1955.

"It is our impression that the voluntary admissions have increased in 1954–55 in apparent relation to the new law regarding the management of drug addiction in District of Columbia, that is, voluntary court commitment of drug addicts. It is noted that only 43 admissions were actually court committed as compared to 174 voluntary admissions.

"Many of the voluntary patients appear to be trying to avoid court commitment and resist the recommendation of treatment at Lexington.

"A breakdown of admissions for the month of January reveals that the average number of days of hospitalization for the voluntary cases in January was 7 days, the average number for court cases was 24 days. The longer period of hospitalization at District of Columbia General Hospital for court cases is due to the waiting for transportation to Lexington for treatment.

"One addict was a barbiturate addict and is not included in the above figure.

"Prepared by Dr. Schultz, chief psychiatrist, District of Columbia."

2. *Fails to include juvenile addicts.*—The failure to include juveniles specifically under the authority of the act is another weak point. This has given rise to recent litigation, as juvenile addicts have tried to avoid its compulsory treatment provision. It is obvious that the efficacy of the act will be undermined as long as any one segment of the addict population is not subject to the provisions of the law.

3. *Lacks suitable follow-through procedures.*—The existing addict law fails to provide suitable means for supervising the addict-patient when he returns from the Federal narcotics hospital, having received maximum benefit from the treatment available there. Under the law the discharged addict-patient is supposed to report to the Legal Psychiatric Services Division, Department of Public Health, for continued psychiatric care and physical examinations for a period of 2 years. However, testimony revealed that the addicts usually appear only once or twice, never to be heard of again. Moreover, the addict may not be required to report more often than once a month, despite the fact that medical authorities agree that this is not frequent enough in most of the cases.

Perhaps the greatest single weakness in the follow-up provisions is the lack of a simple ,clear-cut procedure for recommitting the addict who has relapsed and is again using narcotic drugs. As the law now stands, if the hospital-discharged addict returns to the Washington community and relapses, police and prosecuting officials must begin the entire costly, cumbersome procedure over again in an effort to locate, examine, and recommit him to a hospital for further treatment. In addition, the statute is absolutely silent as to the means

the United States Attorney may employ to enforce the probationary period for the drug addict.

It must be clearly recognized that treatment at the Lexington Hospital is but the first phase of the treatment and rehabilitation of the drug addict; the most important phase of the job—proper followup—must be done here in the community. This cannot be accomplished until the present addict law is revised and strengthened, to provide adequate control over the drug addict, to insure that he receives post-hospital care, supervision, counseling, periodic physical examinations and, in both his and the community's interest, mandatory recommitment to the narcotics hospital upon relapse.

B. Metropolitan police do not have authority to apprehend the chronic or "incurable" drug addict

Washington, like other large metropolitan cities, has a hard core of chronic or so-called incurable drug addicts who, for the most part, are not amenable to ordinary treatment and rehabilitation, and who are a menace to the community in that they infect others with their addiction and habitually engage in crime to support themselves and their drug habits. But, unlike many other cities, Washington has no authority whatsoever to apprehend and confine this type of drug addict. Dr. Kenneth Chapman, consultant, Narcotic Drug Addiction, Community Services Branch, National Institute of Mental Health, referred to the broad national problem in these terms before the subcommittee:

"There is a hard core, and this is the group we hear about repeatedly, who cause the general feeling that drug addiction is incurable. It is those people we continually see, those people who are continually in the hands of the police, who are continually seeking drugs. This hard core are the ones we see all the time; they are the ones who cast doubt on the possibility of any successful treatment."

The size of the hard core in Washington is unknown, but that Washington has a fairly large active-addict population cannot be doubted for, with 887 known drug addicts reported, fewer than 50 are in Lexington at any one time. This leaves a sizable number on the streets, although many of the addicts reported are undoubtedly serving prison sentences for violations of either narcotic or other laws. The danger to the community of such a coterie of drug addicts is forcefully stated by Commissioner Harry J. Anslinger of the Federal Bureau of Narcotics, who said:

"The great majority of drug addicts are parasitic. This parasitic drug addict is a tremendous burden to society. He represents a continuing problem to the police through his depredations against society. He is a thief, a burglar, a robber; if a woman, a prostitute or a shoplifter. The person is generally a criminal or on the road to criminality before he becomes addicted. Most policemen recognize that one of the best ways to break up waves of pocket picking, petty thievery, and burglary in the community is by making a roundup of drug addicts."

Chief Robert V. Murray gave local significance to Commissioner Anslinger's summation when he emphasized in his testimony that "a large proportion of our serious crimes is committed by addicts." Among the crimes he cited were thefts of various kinds, robbery, housebreaking, petty thievery, shoplifting, breaking into automobiles, and prostitution. In addition, habitual drug addicts were found to be responsible for many of the crimes of violence in Washington, such as the cold-blooded murder of the night watchman at Aristo cleaners and a recent brutal stabbing.

Until these drug addicts are removed from the streets the cancerous infection remains as an open sore in the city, for they largely are the ones who spread addiction and they are the ones who, because they seldom work, keep the crime rates so high.

However, it must be clearly recognized that it is almost useless to send this type of addict to Federal narcotics hospitals as they seldom respond to treatment. Dr. Harris Isbell, Director, Addiction Research Center, Lexington, Ky., stated the problem this way:

"A chronic, relapsing addict with a long record might be taken in just for withdrawal of drugs; if we feel we can do nothing for him we will just take him in for 2 weeks or 30 days, after which we will discharge him again."

The Surgeon General has insisted that this type of chronic drug addict not clutter up Lexington. Chief Judge Leo A. Rover, of the Municipal Court of Appeals of the District of Columbia, quite properly urged while he was United States attorney that the 50 beds which have been set aside at Lexington for the District's narcotic addicts be made available on a priority basis to those youthful addicts who offer the greatest promise of responding to medical and psychiatric treatment, and whose rehabilitation ultimately would mean the most to the community.

This hard core of drug addicts in the Washingron community is a real threat. It is a threat, in the judgment of the subcommittee, which should and must be met with statutory authority for the arrest and prosecution of drug addicts in order that they might be prevented from mingling in public and, as the individual case may warrant, placed in existing narcotics hospitals; in special facilities which may be established for chronic, relapsing addicts; or in penal institutions. Such authority to arrest and prosecute the illicit drug user would give added support and strength to the civil-type addict law and, eventually, would result in the treatment of all those addicts who seem to offer even a glimmering promise of rehabilitation. It would, at the same time, give the police needed authority to remove from the streets these chronic or incurable drug addicts who, in reality, have lost their power of self-control. They are dangerous to the health and welfare of the community not only as habitual criminals but also as spreaders of addiction, much on the same basis as persons with contagious diseases.

II. DRUG PEDDLERS

DRUG PEDDLERS OFTEN EVADE DETECTION, ARREST, AND PROSECUTION AS A RESULT OF UNNECESSARILY STRINGENT FEDERAL CRIMINAL LAWS WHICH HAMSTRING BOTH POLICE AND PROSECUTORS

1. District police and prosecutors are severely handicapped by Federal jurisdiction in the District of Columbia

District enforcement officials face major obstacles in their efforts to detect, arrest, and prosecute the narcotics traffickers. These obstacles arise principally from the fact that the District, unlike the States, operates entirely under a Federal system of criminal law, enforced under procedures designed primarily to accommodate the exercise of broad Federal authority. These procedures, we have found, are ill suited to meet the daily, practical problems of police work on the local level. Yet, that is exactly the handicap which is imposed upon the enforcement and prosecution agencies in the District of Columbia. Mr. Warren Olney, Assistant Attorney General in charge of the Criminal Division, Department of Justice, told the subcommittee:

"* * * If the ordinary policeman on the beat [in other cities and the States] had to labor under these restrictions as to whom he can arrest and what constitutes probable cause, when he can make a search, the States would be a shambles * * *. But in the District where the Federal Government is up against the same problem of keeping the peace, a poor job is being done through the lack of adequate realistic Federal procedures."

Mr. Harry Anslinger, Commissioner of the Federal Bureau of Narcotics, Department of the Treasury, expressed his concern before the subcommittee in these terms:

"* * * The situation here in the District is rather difficult for the enforcement officer. Here you are operating strictly in a Federal jurisdiction where you are confronted with all of the Federal court decisions as to search and seizure. You do not have the latitude that you do in the States where we can turn many of our cases over to the State courts and have them disposed of very quickly. Now the enforcement officer in the District, and I am speaking of the local police, does operate under that severe handicap of having only Federal jurisdiction * * *"

It should be emphasized that in the States, the narcotics peddler is subject both to Federal and State prosecution and, once arrested, is very unlikely to escape punishment. This is due to the fact that Federal and local officers work in close cooperation, and the cases, when completed, are presented in the State or Federal court, depending on the nature of the violation, the manner in which the evidence was acquired, and the severity of the penalties which can be imposed. However, the drug peddler in the District of Columbia is subject only to Federal procedures, and those procedures are entirely too stringent to meet the needs of ordinary police

activity on the local level. "That accounts," as Commissioner Anslinger testified, "in some measure for the fact that the traffic is a heavier traffic here than it should be."

2. Police officers are denied search warrants after sunset unless they can furnish an affidavit containing positive evidence that illicit narcotic drugs are on the premises to be searched

The greatest single handicap resulting from Federal jurisdiction may well be the extreme difficulty in obtaining evidence of a narcotics violation under the stringent search and seizure laws and, subsequently, in getting such evidence before the court.

Nine out of ten transactions in illicit narcotic drugs occur during the nighttime, yet, Metropolitan Police officers, as well as agents of the Federal Bureau of Narcotics, cannot obtain a warrant for a search after nightfall unless they are able to swear to an affidavit and show "positiveness" of evidence, as required by rule 41 (c) of the Federal Rules of Criminal Procedure. According to the rule, warrants may be issued on "probable cause" for searches of residences or establishments during the daytime, but searches after dark require affidavits and "positiveness" of evidence. The requirement, as set forth in rule 41, section C, is as follows:

(c) ISSUANCE AND CONTENTS. A warrant shall issue only on affidavit sworn to before the judge or commissioner and establishing the grounds for issuing the warrant. If the judge or commissioner is satisfied that the grounds for the application exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. The warrant shall be directed to a civil officer of the United States authorized to enforce or assist in enforcing any law thereof or to a person so authorized by the President of the United States. It shall state the grounds or probable cause for its issue and the names of the persons whose affidavits have been taken in support thereof. It shall command the officer to search forthwith the person or place named for the property specified. The warrant shall direct that it be served in the daytime, but if the affidavits are positive that the property is on the person or in the place to be searched, the warrant may direct that it be served at any time. It shall designate the district judge or the commissioner to whom it shall be returned."

"Positiveness" furthermore has been interpreted to mean that someone who has been in the particular premises must be able to state definitely and affirmatively before the issuing authority that narcotics are in the premises.

Mr. Cyril S. Lawrence, United States commissioner for the District of Columbia, testified that, because of the strictness of the rule, he has been forced to deny search warrants in many narcotics cases. He presented the problem to the subcommittee in these terms:

"Nine out of ten cases of narcotic violations occur in the nighttime. But, to make any search in the nighttime it is necessary for the officers presenting the affidavits and appli-

cations for search warrants to be positive of their information, otherwise I must deny them. * * * It seems to me that this is a great hardship on the police and the narcotic enforcement officers * * * because most of the information they get is through informers or through other people and they do not always have direct information of themselves that they have seen the contraband in the place to be searched.

"* * * A law should be enacted which would permit officers to apply for a search warrant and only have to show reason to believe and not to show "positiveness." This is particularly important because many times the enforcement officers have an affiant, or a potential affiant, who does not wish to reveal his name, does not wish to say who he is for fear of reprisals or fear of his life—and further, the Government may not wish to reveal him at that time; maybe they will use the same man on some other case.

"It seems to me that in the interests of justice and, I think, good law enforcement and protection of the public, there should be some changes made whereby police officers could obtain a warrant on "probable cause" where there is good reason to believe the contraband exists, and the only time, or appropriate time, to seize it is in the nighttime."

That rule 41 (c) of the Federal Rules of Criminal Procedure hampers police activity in a very real way, is clearly demonstrated in the following case example:

Federal narcotic agents and District police maintained close surveillance over a suspected narcotics trafficker for a period of more than 2 weeks. During this time they witnessed several known drug addicts making 5-minute visits to his residence. They also witnessed him associating with known narcotic peddlers in well known meeting areas. The agents even managed to have an undercover employee make a purchase of heroin of a third party through the help of the suspected violator. (The police did not want, at that time, to reveal the identity of the undercover employee by placing his name on a warrant.) Finally, the Federal officers and police observed 3 known drug addicts go into the suspected peddler's house and saw 1 of them, a female, come out after a brief stay; the agent advanced and spoke to her, at which time she threw a quantity of heroin on to the ground. She was arrested, and the agents proceeded, at this point, to apply for a warrant to search the premises during the night.

They were denied a warrant on the ground that they did not have sufficient information to justify the issuance of a warrant to be served in the nighttime. In fact, the officers were told that in order to obtain a warrant they would have to present (1) an affidavit of an informer, addict, or some other person who had actually purchased drugs in the premises from the suspected peddler; or (2) an affidavit of someone who had been in the premises and who had actually seen the narcotics there within a short period of time. Failing to get a warrant, the police were forced to abandon the case after much costly and time-consuming investigation. (It may be noted that the suspected peddler was subsequently

arrested for narcotic law violations following his testimony before this subcommittee and is now awaiting trial.)

The inflexible requirement of "positiveness" illustrated by this case seems archaic and, at the very least, gives the drug peddler a distinct advantage over the police in their efforts to apprehend him. The result, of course, is that the narcotics trafficker in Washington can go inside his house after dark and close the door behind him, and he is virtually immune to the police. The stringent Federal rules of search and seizure, therefore, impose undue restraints upon enforcement agencies in the District of Columbia who are trying to control the community's narcotics traffic as a purely localized police activity. As long as such a strict rule governs the issuance of search warrants to be served after dark and especially with 9 out of 10 narcotic violations occurring during the nighttime, there is little hope of making an appreciable dent in the Washington dope traffic.

Therefore, it is imperative that Congress recognize that agencies of the District of Columbia, as well as Federal investigative agencies who are trying to deal with narcotic racketeering on a national and interstate basis, are very badly handicapped in their efforts to stamp out the illicit narcotics traffic by lack of realistic and intelligent Federal law on the subject of search and seizure.

3. Police officers are not authorized to arrest on probable cause in the case of misdemeanors which are violations of the Uniform Narcotic Act

Although police officers in the District may arrest a suspect without a warrant upon probable cause to believe that he is committing a misdemeanor in that he is in possession of "numbers slips," the police are not similarly authorized to make an arrest without a warrant where they have probable cause to believe that the individual is committing a misdemeanor involving the unlawful possession of a narcotic drug. At the present time, in order to make a valid arest without a warrant in such cases, a violation of the act must occur in the presence of the police officers. The United States attorney and the Chief of Police urge that such arrests be authorized, based on probable cause as in the case of a felony, to enable better enforcement of the Uniform Narcotic Act for the District of Columbia.

The subcommittee believes that Congress must insure that there does not exist any gap in the authority of enforcement officers to apprehend persons whom they have good and just cause to believe are violating the narcotic laws. To the extent that any gap does exist may be measured the exact advantage enjoyed by the narcotics traffickers themselves.

4. Police officers are not authorized to serve search warrants for violations of Federal narcotic laws

Natcotics cases in the District of Columbia are generally prosecuted under the Harrison Narcotic Act, the Export-Import Act, and the Marihuana Tax Act. Since these are Federal statutes, warrants issued based on a violation of

such statutes must be directed to the United States marshal or to some civil officer of the United States. They may not be directed to a member of the Metropolitan Police Department. The result is that it is necessary for District police officers to obtain the assistance of a United States marshal or a Federal narcotics agent to accompany him on each occasion that he has to serve a warrant for violation of one of :the Federal statutes. Criticizing this procedure, United States Commissioner Lawrence testified:

"* * * If the policeman applies to me for a search warrant and he has all the information, I have to direct the search warrant to a United States marshal or to a Federal narcotic agent. While I do not say the narcotic agents do not cooperate with them, they cooperate in my opinion with the police department very well, I do not think that it should be a necessity each time to have a United States marshal who probably knows nothing about the violation to go along with them, just because it requires an official tag."

This procedure places the District police officer under a considerable handicap, in that Federal officers are not always available, and, also, it obviously must burden the United States marshal with unwanted chores. In any event, it is a waste of manpower to have 2 enforcement officers doing a job that 1 alone could do as well. Moreover, such an additional officer who must presently make the return affidavit to the acception of the search warrant unnecessarily adds another witness to the proof of continuity of possession of any narcotics seized as a result of this warrant.

5. Police officers and Federal narcotic agents are not authorized to make wiretaps, or to use wiretap information, in order to corroborate testimony or detect new evidence of narcotic law violations

While a great many States permit enforcement officers to make wiretaps, and permit the use of evidence obtained by wiretapping, such authority is not available to enforcement and prosecution agencies in the District of Columbia.

The subcommittee has found the telephone to be an essential medium for the conduct of the organized and tenacious narcotic racket. This is particularly true in operations conducted in large metropolitan areas like Washington and in intercity and interstate trafficking. Peddlers of dope could not organize or operate their vicious racket without the telephone. For this reason, law enforcement officers and prosecutors throughout the United States have overwhelmingly urged this subcommittee to recommend carefully restricted wiretapping authority to be used in narcotics investigations. The value of wiretapping in the campaign against the illicit drug traffic, in corroborating testimony by addicts and informers and in detecting new evidence, is dramatically illustrated in the testimony of two able prosecutors, Mr. Samuel Dash, acting district attorney, Philadelphia, and Mr. Fred Smithson, assistant United States attorney, Washington, D. C. Their testimony, which follows, is truly "a tale of two cities"—one which succeeded

and one which failed in apprehending and punishing vicious drug traffickers. Statement by Mr. Dash:

"One of the most important uses of wiretapping in Philadelphia today is in combating the drug traffic. As a result of two important raids in the last 3 months, the Philadelphia police and the district attorney's office have virtually driven the drug traffic out of Philadelphia.

"There has been no single drug peddler who has escaped conviction. The sentences have been severe. There has been a steady stream of drug addicts leaving Philadelphia. Through wiretapping, we have learned that large distributors in Chicago and New York have refused to come to Philadelphia because, in their words, 'It is too hot in Philadelphia for drug sellers.' In the latter stages of the program against the drug peddlers, we were reaching the large distributors. These persons were too clever to sell to police officers. But through information learned from the drug sellers who had already been arrested, the district attorney's office and the Philadelphia police were able, through wiretapping, to secure enough evidence on some of the large distributors to make arrests and to try to convict these distributors. Today these distributors are behind bars serving long prison terms.

In one case, a distributor who thought himself so clever that he could never be detected was tapped and his entire operations were learned. The day before his arrest, our wiretappers even learned that he had an inside tipoff man who warned him of the arrest. He didn't believe that he could be arrested. He was found sleeping peacefully in bed when the raiders came."

Compare the above testimony to the experience of prosecutors here in Washington when they tried to convict two police officers assigned to the narcotics squad who, themselves, were alleged to have become entangled in the drug traffic. Mr. Smithson, assistant United States attorney, testified:

"* * * One case is very close to me, for I was trial assistant. It involved two high-ranking police officers who were assigned to the narcotics squad—Hjalmer Carper, who was acting lieutenant in charge of the narcotics squad of the Metropolitan Police Department, and Detective Sergeant William Taylor who, I believe, was second-ranking man on the squad. Both of these officers were charged with conspiracy with a man by the name of Jim 'Yellow' Roberts, a notorious narcotics trafficker.

"Assigned to this case, there was an outstanding investigator, with unusual ability to convey his thoughts and knowledge in the field, a man by the name of Howard Chappell, of the Federal Bureau of Narcotics. When he was developing the original case against Jim 'Yellow' Roberts and his wife, he worked undercover for the Federal Bureau of Narcotics without any information being known to anyone else in the city. And there came a time when Jim 'Yellow' Roberts told the agent—and the agent so testified—that he would have no trouble, he would take

care of him, because he had his fix with the head of the local narcotics squad.

"There came a time further when Agent Chappell met for the first time these two police officers—it was in the office of the United States commissioner where testimony was taken—and they learned for the first time that an agent and undercover man had a purchase on James 'Yellow.' And James 'Yellow' testified that he was immediately notified by telephone by that police officer that two, a white and colored agent, had purchases on him, and to get out of town.

"Now there is a prime example, because prior to that occasion the agent had information that Jim 'Yellow' was dealing with someone in the local narcotics squad. If they had been permitted to use a tap on those particular wires, there would have been the direct corroboration necessary to identify the person that made the telephone call from that police lieutenant to Jim 'Yellow' telling him what he had just discovered and telling him to get out of town.

"I would like to stress this, that wiretapping evidence would have supplied that degree of corroboration which that jury would have found, I believe, sufficient to have convicted those two police officers. While we had Chappell and one other witness testify, the great parade of witnesses were convicted narcotic peddlers or addicts whose testimony the jury is cautioned to view with scrutiny and care. However, evidence we could have obtained by wiretapping would have identified and corroborated the narcotics peddler, Jim Roberts' story, to Chappell when he did not know Chappell was a narcotics agent, that he had a connection, a payoff arrangement, with the head of the local narcotics squad, and that would have corroborated the call from Lieutenant Carper to Roberts' residence, and the admonition to Roberts to leave town because the 2 agents, 1 a white and 1 a colored informer, had purchased drugs from Jim 'Yellow', and that they were applying for an arrest warrant and were going to arrest him.

"Without such corroboration, which wiretapping evidence would have made possible, the verdict was 'not guilty,' and these police officers escaped punishment."

Wiretapping, therefore, is essential in the fight against the illicit drug traffic. Such wiretapping evidence would be corroborative of the testimony of informer-witnesses whose testimony is otherwise critically affected by the standard instructions to juries that informer-testimony should be received with caution and scrutinized with care. By having such corroborative evidence, informer-witnesses will receive more nearly their deserved credence. Without it, law-enforcement agencies are severely handicapped in this age of modern electronic methods which are freely utilized by the traffickers. Unless law-enforcement agencies can match the criminals weapon for weapon, law-enforcement agencies cannot be fully effective. Denying the use of supervised wiretapping authority in the District of Columbia in narcotics cases, recalls an observation made by the late Supreme Court Justice, Mr. Jackson, when he said:

"Criminals today have the free run of our communications systems, but the law-enforcement officers are denied even a carefully restricted power to confront the criminal with his telephonic and telegraphic footprints."

Recommending wiretapping authority for use in the District of Columbia, especially in narcotics cases, are Mr. Warren Olney III, Assistant Attorney General in charge of the Criminal Division; Mr. Harry J. Anslinger, Commissioner of the Federal Bureau of Narcotics; Chief Judge Leo A. Rover; Mr. Oliver Gasch, United States attorney; Chief of Police Robert V. Murray; and Capt. Todd O. Thoman, head of the narcotics squad of the Metropolitan Police Department, and many others.

The subcommittee proposes, therefore, that specific authority to intercept telephone conversations between narcotics traffickers, as well as authority to introduce the information so gained into evidence, should be made available for use in the District of Columbia. To that end, the subcommittee has written specific authority to intercept and divulge telephone conversations into the bill amendatory of title 18 of the United States Code. The authority contained therein will apply to the District of Columbia and will thus serve to remedy a serious impediment to local law enforcement. We are not, however, recommending that such wiretapping authority be given directly to the Metropolitan Police Department, but we are proposing the authority for Federal narcotics agents with the specific direction that they afford District law-enforcement agencies their complete cooperation and assistance in specific cases involving violations of Federal narcotics laws. This decision to make wiretapping authority available, and yet reserve its use to Federal officers, reflects the subcommittee's belief that the authority to make wiretaps should be restricted to a small and highly specialized group to be used under limited conditions and with judicial approval.

6. The Government lacks the right to appeal from orders of the district court suppressing the evidence in narcotics cases

The problems of search and seizure, as well as the lack of authority to intercept telephone communications in narcotics cases, are compounded by the fact that Federal prosecutors in most instances have been denied the right to appeal from a preliminary order of the United States district court suppressing evidence obtained by allegedly unreasonable methods. Under certain circumstances, the Government is allowed to appeal from such orders, although that right is severely circumscribed. In the District of Columbia the rule in *U. S.* v. *Cefaratti* (91 U. S. App. D. C. 297, 202 F. 2d 13 (cert. denied, 345 U. S. 907)), permits the Government to appeal from a preliminary order suppressing evidence provided the Government assures the court that without the evidence suppressed it is unable to proceed with the trial. The principle enunciated in the Cefaratti case was very recently reaffirmed by the United States Court of Appeals

for the District of Columbia Circuit in *U. S.* v. *Carroll et al.*, decided May 3, 1956.

With stringent Federal rules of procedure governing searches and seizure in the District, the absence of a statutory right of the Government to appeal from orders to suppress the evidence in narcotics cases is doubly important, because:

(*a*) *It is believed to have lost the Government some good cases, the merits of which were never tried.*—It has become quite common, almost routine, for defendants in narcotics cases in Washington to object to the admissibility of evidence on grounds that it has been illegally obtained. The subcommittee heard testimony, moreover, that the grant of motions to suppress the evidence in the United States district court, sometimes improvidently granted, has lost the Government some good cases against narcotics violators. It is obvious that if the evidence—the narcotic drug itself—is to be suppressed, because of some supposed irregularity in connection with the seizure, the Government's whole case is destroyed. There is no possibility of even getting to the jury with the merits. This method by which narcotics traffickers are sometimes able to avoid successful prosecution is dramatically illustrated in the following sworn testimony by Thomas W. Andrew, Federal narcotic agent, who appeared before the subcommittee, July 19, 1955, with evidence concerning Joseph James Bearer, a nationally known narcotics trafficker:

"Testimony of Thomas W. Andrew, Federal Narcotic Agent, Washington, D. C.

"Mr. Andrew. My name is Thomas W. Andrew; I am a Federal narcotic agent assigned to the Bureau of Narcotics, Washington, D. C.

"On June 19, 1951, I received information from a confidential source that a man by the name of Joe would leave New York by plane, and was to come to Washington, D. C., and meet a man by the name of Claiborne who was associated with two known drug addicts, namely, one Jeff Histon, and one Nick Passero. They were to meet at a hotel in the 1100 block of 14th Street NW., and bearer was believed to be bringing a supply of heroin with him.

"I received this phone call about 6 p. m., and bearer was due to arrive within an hour.

"Senator Daniel. From New York?

"Mr. Andrew. From New York City.

"I got in touch with Agent Frank G. Pappas, and a member of the police narcotics squad, and before I left home I received another phone call advising that this man would come to the hotel, there pick up a note which directed him to 1422 N Street NW., Washington, D. C., to meet Claiborne, and these other two men.

"As a result of that conversation we proceeded to the vicinity of this hotel, and shortly before 7 o'clock observed a taxicab from the airport, regular airport taxicab, arrive in front of the hotel.

"A man got out, carrying a suitcase. He went into the hotel, and about 15 seconds or a half minute was out again, and at that time I received a signal identifying this man as Joe.

"Joe then got into a Yellow cab and was followed to 1422 N Street. As he got out of the cab I approached him, identified myself as a Government narcotic agent, displayed my badge, and asked him the question. I said, "Joe, we understand you are transporting drugs from New York. How about it?"

"And he said, 'No.' I said, 'Do you mind if we look?' And he said, 'No, here it is,' and gave me two envelopes which later proved to be heroin.

"Later at police headquarters he was asked if he had any more, and he surrendered one bit more, and then after he got upstairs and was searched we found another deck of heroin in his possession.

"Bearer had a rather extensive record——

"Senator DANIEL. Criminal record?

"Mr. ANDREW. Criminal record and background, and he had been addicted to drugs since 1912.

"He admitted that he came by plane from New York and that he had come to Washington for the purpose of bringing the heroin here. Due to the lack of sufficient time no effort was made at that time to try to obtain a warrant.

"Senator DANIEL. All right. You would not have had time to get a search warrant?

"Mr. ANDREW. I didn't even have time to apply for one, and I believe, in my opinion, that I had sufficient cause to make the arrest and search.

"Later Bearer was indicted, and the final action of the case was a motion to suppress, which motion was granted by the court.

"Senator DANIEL. In other words, the evidence that you had gotten against him was suppressed by order of the court?

"Mr. ANDREW. That is correct, sir.

"Senator DANIEL. By motion of defense counsel?

"Mr. ANDREW. That is correct, sir.

"Senator DANIEL. On what grounds?

"Mr. ANDREW. On the grounds that I did not have a sufficient cause to believe that the law was being violated.

"Senator DANIEL. Therefore, you did not make a lawful search?

"Mr. ANDREW. That is correct.

"Senator DANIEL. Even though he told you, 'Here it is, take it'?

"Mr. ANDREW. That is correct, sir. He volunteered the heroin and gave it to me voluntarily without my even placing my hands on it. He surrendered it voluntarily.

"Senator DANIEL. That was the ruling of the court?

"Mr. ANDREW. That was right, sir.

"Senator DANIEL. And, of course, the Government had no right to appeal from that ruling?

"Mr. ANDREW. I understand that is correct, sir.

"Senator DANIEL. I think it is one of the most flagrant cases that has been before the committee of a situation which calls at least for the Government to have the right to appeal from those orders and, in my opinion, we ought also to have a special search and seizure law for the District like most of the States have which will allow you to make a search on probable cause.

"Mr. ANDREW. I agree with you, sir.

"Senator DANIEL. Great goodness, if you did not have probable cause to search this man, I do not know who did.

"Another thing, in most of the State jurisdictions if a person voluntarily lets you search him or his house, you have got a right to do it and to use the evidence against him.

"Mr. ANDREW. I agree with you, sir.

"Senator DANIEL. Do you know of other cases where such search and seizure laws have handicapped you in making prosecutions?

"Mr. ANDREW. I do; yes, sir."

The final action in the Joseph Bearer case was a motion to suppress the evidence, which motion was granted. The result, of course, is that the facts of the case never got beyond the preliminary stages; they were never presented to a jury; and another narcotics trafficker went scot-free without even a trial on the merits of his case. The ultimate question as to whether the court was right in suppressing the evidence in the Joseph Bearer case will never be determined, for the Government did not have in that case, the right to test the technical ruling of the court in suppressing the evidence. That raises the second important point:

(*b*) *With the Government lacking the right to appeal from orders suppressing the evidence, it is difficult to establish the law.*—With the Government not having the statutory right to appeal the grant of a motion to suppress the evidence, there is no way of obtaining decisions from the court of appeals which would formulate and establish definitive law on the subject. It is obvious that, with 94 United States district courts, each having its own views as to what constitutes an illegal search, there will never be achieved any degree of uniformity in the Federal law until the Government has the right to appeal. It is well to emphasize that the district judges, right here in Washington, are not all in agreement as to what constitutes reasonable search and an unreasonable search. Where a search might be approved by one, it will be suppressed by another. Therefore, if the Government does not have the right to appeal from an adverse decision, there is no way of getting a decision from the court of appeals on an issue where the district court may be in error in its ruling. Constitutionally, we believe there is no reason why the Government should not have the right to appeal orders granting a defense motion to suppress the evidence. It would, at the very least, remove another of the arbitrary rules which now serve to handicap enforcement officers and prosecutors in their efforts to stamp out the illicit narcotics traffic in the District of Columbia.

III. UNIFORM NARCOTIC DRUG ACT

THE UNIFORM NARCOTIC DRUG ACT FAILS TO INCLUDE SYNTHETIC DRUGS AND, ALSO, ADEQUATE CONTROLS FOR THE DISPOSITION OF CONFISCATED NARCOTICS AND MARIHUANA

The need for more liberal search and seizure provisions, already discussed, would require major changes in the Uniform Narcotic Drug Act for the District of Columbia, as well as changes in related Federal statutes. However, the Uniform Act suffers from two additional weaknesses:

1. *Synthetic narcotic drugs, equally as addicting as the opium derivatives, are not included in the act*

Despite the fact that synthetic narcotic drugs may be equally as addicting as opium, morphine, heroin, and cocaine, the subcommittee has found that synthetics are not covered in the Uniform Narcotic Drug Act for the District of Columbia. Most of these dangerous synthetic drugs have been subject to strict Federal control for as long as 10 years, and are subject to international agreements and manufacturing quotas, but the District law has never been amended to include them in the Uniform Act. Capt. John Layton, former chief of the narcotics squad, was severely critical of this omission, and stated:

"The most glaring weakness of the Uniform Narcotic Drug Act for the District of Columbia is that it does not now cover the synthetic narcotic drugs in the definitions of the act. We have been handicapped in the past somewhat by that, in that—with respect to the section of the act that deals with obtaining narcotic prescriptions by misrepresentation or fraud—we do not have a violation if that misrepresentation or fraud is done for the purpose of obtaining a synthetic narcotic drug. As a result, we have had cases where we have investigated fraud in connection with narcotic prescriptions and found that they were written for one of the synthetics, and for that reason we could not prosecute the individual."

Commissioner Anslinger also pinpointed the danger of the omission with a concrete illustration:

"Synthetic drugs are not included in the Model Act for the District, but they should be included.

"There was a case brought recently in which a doctor had issued prescriptions, say, not in the course of professional practice. Nearly all of those prescriptions were for synthetic drugs, and it was just because he had issued maybe one prescription for Dilaudid, which is a very powerful drug, a derivative of morphine, that action against him was possible. If he had not issued that prescription, he would have been acquitted or the case would have been thrown out if it had been brought under the Uniform Act of the District. That should be corrected."

In the future it will be even more important for synthetic drugs to be included in the act, for if the recommendations of this subcommittee are enacted into law, we might expect

heroin and other illicit drugs to become more difficult to obtain and the drug addicts to commence preying upon physicians, trying to obtain new synthetic drugs by misrepresentation and fraud, and even turning to burglarizing drugstores for narcotics.

2. No safe and efficient means are provided in the act for the disposition of narcotic drugs seized by the police

No adequate procedure is provided in the Uniform Narcotic Drug Act for the swift and certain disposition of narcotic drugs and marihuana seized and confiscated by the police. "Several cases," stated Chief Judge Leo A. Rover, "have been brought to our attention wherein it would appear that seized narcotics have found their way back into the illicit traffic."

The act provides that only in cases actually presented to the court, the judge having jurisdiction may order the disposal of such drugs, although it is the responsibility of the police officer to keep a record of where, when, kind, and quantity of narcotic drugs disposed of or destroyed, and to report back to the court. This loose procedure, as Mr. Rover indicated, led to a rather reprehensible situation in 1952 when two police officers assigned to the Narcotics Squad claimed that they had disposed of seized drugs by flushing them down a toilet when, in fact, evidence later revealed that the officers had returned the illicit drugs to the hands of peddlers.

Since that time, suitable informal arrangements have been made for the disposition of seized drugs, but there is still a need for a law which would adopt, clarify, and strengthen this procedure. The subcommittee is concerned principally with the problem which arises when narcotics are confiscated in a raid or found on the street by police, but which cannot be connected with an individual for court action, and is not to be used as evidence. We believe that an appropriate statute would protect both the individual police officer and the public.

IV. BARBITURATES, AMPHETAMINES, AND OTHER DANGEROUS DRUGS

NO LOCAL LAW CONTROLS BARBITURATES, AMPHETAMINES, AND CERTAIN OTHER DANGEROUS DRUGS IN THE DISTRICT OF COLUMBIA

One of the major surprises of this investigation has been to find that barbiturates, amphetamines, and numerous other dangerous drugs are not covered either in the Uniform Narcotic Drug Act or in the Pharmacy Act of the District of Columbia. Forty-three States have enacted model legislation and the remaining five have improved laws to control the use and distribution of such harmful drugs, but the District of Columbia has no law at all. The omission has proved to be a major handicap to the Metropolitan Police and even has resulted, as Mr. Oliver Gasch, now United

States attorney, reported, "in the spectacle of people peddling barbiturates on the streets."

1. Police cannot cope with the growing illicit traffic in barbiturates and amphetamines in the absence of a law to control their possession and distribution

The police are handicapped because these drugs are not regulated in any existing law and their possession in huge quantities by an individual is not illegal nor is their distribution by pharmaceutical firms subject to police inspection and control.

In those instances where the police have probable cause to believe that an individual may be peddling barbiturates or amphetamines on the streets, they cannot charge such a person with illegal possession if they are found on him, but may only arrest and prosecute if the person is caught in the actual act of selling the drugs. Arrest for such a sale then amounts only to a petty misdemeanor, and is regarded as a sale by an unlicensed pharmacist, which provides a very minor and insignificant penalty. Expressing his concern of the local situation, Capt. Todd O. Thoman, Chief of the Narcotics Squad, told the subcommittee that the recent overuse of these so-called "goofballs" and "thrill pills" has created a serious new drug problem for the District of Columbia.

" 'The trouble that we have,' stated Captain Thoman, 'is that if we find these people in possession of barbiturates, there is nothing we can charge them with under the present law. We don't have any law at the present time to cover the illegal possession of barbiturates. As an illustration, I might cite 1 case where an officer observed 2 drug addicts drop a pill of benzedrine on the sidewalk, and—since there is no law against possession—the only thing we could charge them with was a violation under the Pharmacy Act prohibiting the dropping of drugs on the street.' "

The principal weakness perhaps, is the complete lack of control over the purchases and sales of these drugs by retailers and distributors in the District of Columbia. Licensed pharmacists can procure any quantity of barbiturates, amphetamines, and other dangerous drugs and are not required to keep a record even of their source of supply or of the total amount of their purchases. The net result is that police know cases where pharmacists have bought large quantities of barbiturates from fly-by-night firms but are without any legal means of checking to determine whether these drugs were ultimately dispensed by a physician's prescription or whether they were sold at an excessive profit without benefit of a physician's order. This utter lack of control extends to the wholesale distributor, to pharmaceutical mail order houses, and to the many salesmen and representatives of pharmaceutical firms who call upon and leave samples with physicians, dentists, veterinarians, and pharmacists. The subcommittee is glad to say, and we emphasize, that the overwhelming majority

of those who handle pharmaceuticals are legitimate businessmen who, if requested, probably could submit records of their transactions and, in any event, would tolerate no irregularity in the handling of these drugs. However, they recognize, as do we, that such a lack of control leaves a wide magnetic gap for those few pharmacists and distributors of drugs who are not able to resist the temptation of the quick turnover and high profits incident to the bootlegging of barbiturates, amphetamines, and similarly dangerous drugs.

2. Barbiturates and amphetamines are especially dangerous drugs

The danger of these drugs, and therefore the importance of regulating their use and distribution, is emphasized in the testimony of Dr. George P. Larrick, Commissioner of the Food and Drugs Administration, who stated:

"Addiction to barbiturates is more serious than to morphine; in fact, although addiction to barbiturates resembles that to morphine in the tolerance and emotional and physical dependence develop, barbiturate addiction is a more serious public health and medical problem because it produces a greater mental, emotional, and neurological impairment and because withdrawal entails real hazards—weaknesses, anxiety, convulsions, delirium, and, in some cases, death itself."

Confirming this view, Dr. Havelock F. Frazer, Assistant Director, Addiction Research Center, National Institute of Mental Health, Public Health Service Hospital, Lexington, Ky., pointed up the fatal aspects of such drugs in these terms:

"Acute intoxication with barbiturates accounts for approximately 25 percent of all patients with acute poisoning admitted to general hospitals, and more deaths are caused by barbiturates, either accidentally ingested or taken with suicidal intent, than by any other poison. The seriousness of the situation is reflected by the large number of States which have passed laws regulating the sale of barbiturates."

3. The use of barbiturates and amphetamines leads to narcotic addiction and crime, causes traffic accidents and accidental deaths, and often results in general dissolution of character

Enforcement officers and prosecutors in Washington testified that chronic alcoholics, many of whom infest our public parks and streets, supplement their use of low-grade alcohol with barbiturates to produce the so-called wine mickey, with the result being a particularly unfortunate one, as far as the individual is concerned, and as far as his propensities for crime are increased. We learned that many of the narcotic addicts now on the streets began the route to their present addiction through the indiscriminate use of barbiturates and amphetamines. A good percentage of the narcotic addicts, moreover, are found to be peddlers of barbiturates in order to obtain the money to support themselves and their addiction, preferring to sell the "goof balls" and "thrill pills," because of the very slight penalties involved in the event of arrest and conviction.

Medical testimony before the subcommittee showed these drugs to cause symptoms which include confusion, difficulty in thinking, impairment of judgment, and increased irritability, resulting often in fatal accidents and, when used habitually, causing a general dissolution of individual character. Commissioner Larrick, in his testimony, told the subcommittee:

"Many people die from accidents while under the influence of the drug and the true cause is never identified. For example, we know of a man who fell into an open gas furnace and died from the burns he was too stupefied to feel. People under the influence of the drug may be killed as pedestrians or kill themselves or others in automobile accidents. Since there is no odor to reveal it, barbiturate addiction is an insidious thing. For that reason, it is not always suspected by persons investigating accidents.

"Addiction to these drugs produces a general dissolution of character. We know of men who have held responsible positions but gradually became derelicts through the use of these drugs. Whole families may become relief problems when the breadwinner becomes addicted. Oftentimes housewives begin to use the drug on a doctor's prescription for a nervous condition; then gradually increase the dosage as tolerance and emotional and physical dependence develop. They no longer take an interest in the home or children, get dirty and slovenly; steal money and sell furniture to get the drug. Again, because the drug is odorless, the victim may be far along before the family recognizes the real trouble."

4. Juveniles have easy access to barbiturates and amphetamines in Washington

Testimony before the subcommittee showed dangerous drugs to be readily available to juveniles in the District of Columbia. Dr. John Schultz, chief psychiatrist, District of Columbia General Hospital, who has the responsibility of treating many of the youthful victims of these drugs, told the subcommittee that he was startled to find when he came to Washington that there was no control of barbiturates and amphetamines. Dr. Schultz strongly urged that such harmful drugs be strictly controlled by physicians' prescriptions and in pointing out the accessibility of these drugs to juveniles, stated:

"Every third medicine cabinet probably has some barbiturates in it. Therefore, the juveniles have no trouble getting these. They tell me all they have to do is go around to their friends' medicine cabinets and they will find them. Their parents have them. Their relatives have them prescribed by physicians. Their sisters have them prescribed. They take a collection and soon have enough for their own use.

"I have gone into some apartments where I have seen 4 or 5 or 6 bottles of those around, seconal, neonal, allonal—you know them all.

"* * * with juveniles, it is mostly a matter of abuse. They use them for thrills. They combine them very often

with benzedrine, of course, to keep them awake and the barbiturates to give them a feeling of stimulation and benefits they are seeking.

"Very often, it is connected with accidents and sex instances and many other difficulties they get into."

The subcommittee is convinced that the failure to control effectively the use, dispensation, and distribution of barbiturates, amphetamines, and other dangerous drugs is a clear and present danger to the welfare of this community. As long as this gap exists, certain druggists and distributors will bootleg drugs; peddlers of barbiturates will thrive on the streets; users will buy and take these drugs in an abusive fashion; and general neglect will continue, dangerous drugs will be overprescribed, and medical cabinets will bulge. The subcommittee agrees that all unnecessary record-keeping on the part of legitimate dealers in these drugs should be avoided, but we are determined to improve the control of these drugs by instituting record-keeping where it will be of substantial benefit to the community.

V. TREATMENT AND REHABILITATION OF DRUG ADDICTS

FACILITIES ARE INADEQUATE FOR THE TREATMENT AND REHABILITATION OF DRUG ADDICTS IN THE DISTRICT OF COLUMBIA

Washington, with a fairly large number of drug addicts, has exceedingly limited facilities for their treatment and rehabilitation. Until recently, drug addicts who came to the attention of health authorities were simply placed in the psychopathic ward of District of Columbia General Hospital along with alcoholics and psychotics. Within the last few months, however, a new ward with 16 beds has been established at District of Columbia General Hospital, although it is suitable for treating the addict only during the period that he is undergoing withdrawal from the drug. These facilities, in fact, are being used primarily for those drug addicts who have been committed under the District of Columbia addict law and who are awaiting final clearance for the Federal narcotics hospital at Lexington, Ky.

The subcommittee is convinced that it is almost impossible to control drug addiction in the District of Columbia without a comprehensive community program for treating and rehabilitating the drug addict. Such a program must include mandatory treatment in a hospital, as well as compulsory aftercare, supervision, and control which will help the addict who wants to be cured, but which will prevent him from becoming a source of contagion, if he relapses. In general, our findings cause us to believe that an adequate treatment and rehabilitation program in the District of Columbia must include:

A. Hospital ward facilities for treating the addict during withdrawal from the drug

Ward facilities, such as those already in operation in District of Columbia General Hospital, should be continued and expanded to handle the increased number of narcotic addicts who, it may be anticipated, will be processed under the proposed revision of the addict law and the new vagrant-drug user provision of the Narcotic Control Act for the District of Columbia, if the bill is finally enacted into law.

The subcommittee commends the Commissioners of the District of Columbia for having already established facilities for withdrawal treatment in correctional institutions and in the District of Columbia General Hospital.

B. Hospital facilities to provide medical and pyschiatric treatment and rehabilitation

The subcommittee was encouraged to learn of the recently approved plan to build a new and relatively large psychiatric center at District of Columbia General Hospital where facilities for handling narcotic patients are to be provided. When such facilities actually become available, many addicts could receive treatment there and then, possibly, be transferred to a locally established narcotics farm where continued, but less intensive, treatment might be given with a view to ultimate rehabilitation. Such a farm, which would also include facilities for the restriction of chronic or incurable addicts, has been under consideration for some time in the District and various sites have been suggested and cost estimates made.

For the present time, however, it is imperative that the District of Columbia be authorized to continue indefinitely the use of the facilities of the United States Public Health Service Hospital at Lexington, Ky. It would be totally unrealistic from a financial standpoint for the District to attempt to provide drug addicts with the treatment and rehabilitation services now available at Lexington narcotics hospital. Moreover, it is the belief of the subcommittee that the comprehensive legislation it is proposing, if enacted, will result in the vast majority of drug addicts being rounded up and committed for treatment, placed in special facilities for quarantine-type confinement, or in jail, and that the total volume of the addict problem in the District will diminish within a year or two. If this becomes a reality, then a large outlay of funds would not be required and the facilities proposed for District of Columbia General Hospital in conjunction with a local narcotics farm, might very well assume the total addict-patient load for treatment and rehabilitation purposes.

To summarize, it is the subcommittee's view that the District program should include provisions:

(1) to commit for treatment at Lexington narcotics hospital those drug addicts who, although amenable to treatment, require lengthy periods of intensive medical and psychiatric treatment and rehabilitation within the confines of a major security-type institution.

(2) to treat in the District of Columbia General Hospital those addicts who appear to require minimum treatment and then to transfer them (*a*) to a local narcotics farm for gradual rehabilitation or, if the individual case so warrants, (*b*) directly to the community follow-through program for compulsory supervision, control, assistance, and periodic examinations for drug addiction.

C. Community followthrough facilities for the discharged addict patient

Hospital treatment for drug addiction, whether at Lexington or in District of Columbia General Hospital, will not be successful unless the drug addict is subject to a compulsory followthrough program in the community, including supervision, counseling, job assistance, periodic physical examinations and, finally, mandatory recommitment upon relapse. Partly because the addict law now provides no effective control over the addict when he returns from the Lexington narcotics hospital, and partly because of the lack of adequate funds and staff, the District of Columbia has failed to provide an adequate posthospitalization or followthrough program for drug addicts. However, unless and until the District does provide such a program, the vast expenditure of funds and energy in the treatment of drug addicts will virtually be wasted.

It is obvious, of course, that it is not enough to make such facilities available; both for his good and the protection of society, the postcustodial program in the community must be made mandatory and not left to the whims of the drug addict. In this connection, the addict patient, upon discharge from a hospital, should be required to report as often as is determined necessary by health authorities for a period of at least 2 years.

D. Farm facilities for the quarantine and rehabilitation of drug addicts

While it has long been under consideration, no action has been taken to establish within the surrounding area a suitable narcotics farm where addict patients discharged from hospital care might be sent for gradual rehabilitation and, also, where chronic or so-called incurable drug addicts could be placed in a quarantine type of isolation. Many sites have been suggested for such a narcotics farm and cottages have been planned, but the actual selection of a site and building has not proceeded, probably because of budgetary consideration. However, the new addict law and the vagrant drug user provisions should result in the apprehension of a sufficient number of drug addicts to warrant the early establishment of such a facility.

The subcommittee urges the Commissioners to review the various plans which have been suggested to date and to make every effort to get such a project underway at the earliest possible time.

VI. NARCOTIC EDUCATION PROGRAMS

Much consideration has been given to the value and wisdom of conducting education courses in the District of Columbia for both juveniles and adults on the dangers of narcotic drugs.

Students in Washington are required, by title 20, chapter 7, of section 111 of the United States Code, enacted in 1880, to be given education in the dangerous effects of both narcotics and alcohol.

The current status of narcotic education in the public schools in the District of Columbia was described by the Council on Law Enforcement in these terms:

"When inquiry was made into the matter of education on drugs with the public schools of Washington, a clear-cut affirmative statement was obtained from the Superintendent, indicating that such instruction is given. Furthermore, as the law referred to requires, teachers of all levels who take examinations for appointment are required to pass an examination concerning the use of alcohol, tobacco, and narcotics. The system applied in the local schools is in substance that in the eighth grade during a course in general science, the students have a 2- to 5-week unit of the harmful effects of alcohol, tobacco, and narcotics from a physiological point of view. Sophomore students have a 2-week unit on the same topics in their course in personal hygiene, and senior high-school boys and girls study the narcotic problem, including its illegal aspects and other phases for about 2 weeks during their last year in school. It is the opinion of the Superintendent and his staff that the training on these topics should be under appropriate classroom situations without overemphasis and that such instruction should be related to the regular curriculum. In addition to the planned and formalized instruction as described for the public schools, the committee learned that special attention is given to any students of whatever age who show an unusual curiosity or in other ways may indicate they need special help in reference to narcotics. In the parochial schools of the District, training in morals, ethics, and the fifth commandment begins in the elementary schools and continues throughout the secondary level."

The subcommittee is of the opinion that narcotic courses in the District of Columbia public school system are in proper perspective and that they are being conducted in a restrained and factual manner. We do not believe that they should be expanded at this time, although greater use might be made of the material, exhibits, and other data as presented in lectures by the officers of the Narcotics Squad of the Metropolitan Police Department.

The subcommittee cautions that, unless narcotic courses are conducted with extreme care, they are likely to produce undue curiosity and excitement which, in the long run, might do more harm than good.

We have evidence of the excellent work now being carried on by Capt. Karl G. McCormick, Chief of the Narcotic

Squad, and Sgt. Joseph A. Gabrys, to promote preventive education in the field of narcotics through lectures, exhibits, and movies, and we encourage this type of approach for all adult citizens' groups in the District of Columbia.

VII. GENERAL RECOMMENDATIONS

Based upon all of the findings, the subcommittee unanimously makes the following general recommendations:

1. That the District of Columbia addict law be revised and strengthened to insure control over and prompt commitment of all narcotic addicts, including juveniles, who show promise of benefiting from hospital treatment and rehabilitation.

2. That the revised addict law contain a provision to place drug addicts who are discharged from hospital treatment on probation status for a period of 2 years, during which time they shall be required to report as often as necessary to the District of Columbia Department of Public Health for continued psychiatric treatment, job placement, physical examinations, and, in the event of relapse to drug use, to be subject to mandatory recommitment.

3. That the Uniform Narcotic Drug Act of the District of Columbia be amended to authorize the apprehension and prosecution of those habitual users of illicit drugs who offer virtually no promise of benefiting from existing treatment and rehabilitation programs, with the objective of removing from the streets the chronic or "incurable" addicts who are dangerous to the health and welfare of the community in that they habitually engage in crime and spread their drug addiction.

4. That present restrictions of rule 41 (c) of the Federal Rules of Criminal Procedure, as well as those contained in the Uniform Narcotic Drug Act, be eased to provide that, in any case where violations of the narcotic laws are involved, a search warrant may be issued to be served at any time of the day or night if the judge or the commissioner issuing the warrant is satisfied that there is probable cause to believe that the grounds for the application exist.

5. That a new statutory provision be enacted providing that Federal search warrants may be directed to any officer of the Metropolitan Police Department of the District of Columbia authorized to enforce or assist in enforcing Federal narcotic laws.

6. That the Uniform Narcotic Drug Act be amended to provide for arrest upon probable cause, as in the case of a felony, of any person who is violating a provision of the act at the time of his arrest.

7. That facilities for the interception of telephone communications between narcotics traffickers in the District of Columbia, should be made available, upon the request of the Chief of Police, by Federal law enforcement officers in the Treasury Department who it is anticipated will be authorized to make interceptions as proposed in the subcommittee's bill, S. 3760.

8. That the Government be given a statutory right of appeal from an order of the United States district court granting a defendant's motion to suppress the evidence in all cases involving violations of Federal narcotic laws.

9. That synthetic narcotic drugs be included in the Uniform Narcotic Drug Act for the District of Columbia.

10. That the Uniform Narcotic Drug Act be amended to provide safe and efficient means for disposing of narcotic drugs seized by the police.

11. That a new law be enacted to regulate and control the sale, possession, and use of barbiturates, amphetamines, and other dangerous drugs in the District of Columbia.

12. That title 24, section 614 of the District of Columbia Code be amended to increase to 100 the number of narcotic addicts who may be committed at any one time from the District of Columbia to United States Public Health Service hospitals to receive treatment for drug addiction.

13. That title 24, section 614 of the District of Columbia Code be amended further to extend indefinitely the authority of the District of Columbia to commit narcotic addicts to United States Public Health Service hospitals.

14. That the Surgeon General be required to furnish to the Director of Public Health of the District of Columbia the name, address, and other pertinent information relating to any drug addict who is a resident of the District and who has voluntarily submitted himself directly to a Federal narcotics hospital for treatment.

15. That the Commissioners proceed promptly with plans for establishing suitable treatment facilities in District of Columbia General Hospital, along the lines indicated in the subcommittee's findings, and that withdrawal facilities be continued and expanded where needed.

16. That the Commissioners move forward with plans to establish a local narcotics farm where addict-patients may be transferred for isolation while undergoing gradual rehabilitation and, also, where chronic or "incurable" addicts might be committed or quarantined for an indeterminate period.

17. That preventive education relative to the dangers of narcotic drugs be continued under the restraints heretofore detailed, with greater use being made of the material, film, and exhibits of the Narcotics Squad of the Metropolitan Police Department; and that adult community groups be encouraged to plan programs and request such lectures, exhibits, and film as are available through the local Narcotics Squad.

Several of the procedural weaknesses in the statutes dealing with the control of narcotics, particularly with respect to the lack of authority to intercept telephone communications, would be remedied in Senate bill 3760, introduced as a result of the hearings of the subcommittee. S. 3760 would establish a new chapter entitled "Narcotics" in title 18 of the United States Code and would have the effect of granting additional authority on a nationwise basis to Federal law enforcement officials and prosecutors engaged in the fight against the

illicit narcotics traffic. The provisions of S. 3760, if enacted, will have applicability to the District of Columbia as well as to the Federal jurisdiction generally and will serve to correct many of the weaknesses the subcommittee has found in the District law, obviating the necessity for writing identical provisions into the legislation for the District of Columbia.

VIII. SUMMARY OF PROPOSED LEGISLATION

The subcommittee's bill, to be cited as the "Narcotic Control Act for the District of Columbia," contains provisions which, if enacted into law, should greatly strengthen enforcement, prosecution, and treatment and rehabilitation programs in Washington.

The following summary of the provisions of the bill is arranged to conform with the various titles, i. e., "Treatment of Narcotic Users;" "Regulation and Control of Dangerous Drugs"; and "Miscellaneous."

I. TITLE I—TREATMENT OF NARCOTIC USERS

This act, The Hospital Treatment for Drug Addicts Act for the District of Columbia, corrects the manifold weaknesses in the present addict law and insures swift and certain commitment for drug addicts who show promise of benefiting from hospital treatment and rehabilitation (chronic addicts, and others who offer little hope, are to be apprehended and confined under new provisions which appear in title III). The act includes the following improvements:

1. Juveniles are specifically included among those subject to the provisions of the act.

2. Physical custody of the individual is maintained from the time he is apprehended until he is committed or released as a nonaddict. No longer will it be necessary for the marshal to personally serve the individual several times during the proceedings; no longer will the individual be apprised of the impending service and change addresses or otherwise evade police officers; no longer will he be able to turn in at District of Columbia General Hospital and undergo withdrawal treatment just long enough to claim in court that he is no longer an addict; and no longer will the individual be in a position to ignore the court's order to appear. Custody is complete and remains unbroken throughout the proceedings.

3. Procedures are streamlined: The act provides for both voluntary commitment and involuntary commitment; the United States attorney and the court are relieved of preliminary processing of the suspected addict and he is not brought to their attention unless he is declared an addict by means of a physical examination conducted by two qualified physicians under the direction of the District of Columbia Department of Health; if a hearing is required, the individual may demand a jury trial to determine the issue of his addiction, and he has the right to counsel at all stages of the judicial proceedings.

4. During probation following hospitalization, the addict must report to the Department of Health as often as required for a period of 2 years. Any addict who again resorts to drugs or becomes addicted can be recommitted without instituting de novo proceedings. He can be apprehended and recommitted forthwith.

II. TITLE II—REGULATION AND CONTROL OF CERTAIN DRUGS

This act, entitled "The Dangerous Drug Act for the District of Columbia," is a completely new law, including penal provisions, to regulate and control the sale and use of amphetamines, barbiturates, and other dangerous drugs. The bill includes the following provisions:

1. The possession of any amphetamines, barbiturates, or other dangerous drugs without a prescription; false representation or concealment of a material fact in obtaining a prescription; or delivery of a dangerous drug to any person not entitled to receive it are punishable by fine and imprisonment.

2. Amphetamines, barbiturates, and other dangerous drugs shall be dispensed only upon written or oral prescription of a physician. In the case of a prescription by telephone, the physician must give his registration number, assigned by the District of Columbia Department of Health, which will be checked immediately against a confidential list provided the pharmacists.

3. Within 30 days following the enactment of this act, pharmacists, manufacturers, wholesalers, warehousemen, manufacturers' representatives, and drug salesmen must establish and thereafter maintain a biennial inventory of all amphetamines, barbiturates, and other dangerous drugs. Prescriptions, invoices, records, and inventories will be subject to inspection at all times by both Federal and local officials. Failure to maintain such records is punishable by a fine and imprisonment.

4. For violation of any of the provisions of this section, the following penalties are provided:

(*a*) First offense: Fine of not less than $100 nor more than $1,000, or imprisonment up to 1 year, or both such fine and imprisonment.

(*b*) Second offense: Fine of not less than $500 nor more than $5,000 or imprisonment up to 10 years, or both such fine and imprisonment.

5. Search warrants, obtained on probably cause that there is a violation of provisions of this act, can be served at any time of the day or night. "Positiveness" in obtaining a night search warrant has been eliminated.

6. Arrests without a warrant can be made as in the case of a felony upon probable cause that the person to be arrested is violating a provision of the act at the time of his arrest.

7. All dangerous drugs seized and forfeited shall be disposed of in the same manner as narcotic drugs.

III. TITLE III—MISCELLANEOUS

A. Amendments to the Uniform Narcotic Drug Act

1. Arrests without a warrant can be made as in the case of a felony on probable cause that the person to be arrested is violating a provision of this act at the time of his arrest.

2. Search warrants, issued on probable cause, may be served at any time of the day or night. The additional requirement of "positiveness" for obtaining a night search warrant has been eliminated.

3. Synthetic drugs are included in the act.

4. Physicians, dentists, and veterinarians may dispense certain narcotic compounds upon oral prescription subject to the same restrictions provided in section 4705 of the Internal Revenue Code of 1954. (This is specifically endorsed by the Bureau of Narcotics.)

5. Revises the procedures and sets forth specific instructions for the disposal of all seized and forfeited narcotic drugs, thereby eliminating a major loophole in the present law.

6. Drug addicts, whether employed or unemployed, may be arrested, prosecuted, and punished by a fine up to $500 or imprisonment up to 1 year, or both such fine and imprisonment. This section defines and punishes as a vagrant a narcotic drug user, who (1) has no visible means of support and is found mingling in public; or (2) is found in any place where illicit narcotic drugs are found, used, or dispensed; or (3) wanders about at unusual hours of the night alone or in the company of or association with a narcotic addict or convicted narcotic violator. The court in sentencing an addict may order (1) submission to mental and medical examination, (2) treatment by proper public health and welfare authorities, and/or (3) imprisonment.

This provision supplements and reinforces the new treatment law. If both the Treatment Act, and this section are enacted, it will be impossible for an addict to appear on the street without danger of apprehension and treatment or incarceration.

B. Amendments to Public Health Service Act

Requires the Surgeon General to furnish to the Director of Public Health the name, address, and other pertinent information of any resident drug addict of the District of Columbia who voluntarily submits himself for treatment.

C. Amendments to Public Law 355

1. Increases to 100 the number of patients who can be admitted at any one time from the District of Columbia to public health hospitals for treatment.

2. Extends indefinitely the authority of the District of Columbia to send narcotic addicts to Lexington or to other Public Health Service hospitals, for treatment.

In addition to having the benefit of the findings and recommendations of the Senate committee, a subcommittee of this committee held public hearings on the bill. Testimony was presented by Federal

and District officials and representatives of pharmaceutical and medical societies and others, urging passage of the bill.

The Amendments

A number of the amendments to the bill are clarifying. Others are made for the following reasons:

Amendment No. 1 would make the first title of the bill effective 30 days after enactment in order to allow time for District officials to make ready additional facilities and instruct personnel required to handle patients to be examined in connection with proceedings to determine whether they are narcotic drug addicts in need of hospitalization. Amendment No. 31 (which adds sec. 304 to title III) is made for the same reason. The anticipation that additional facilities and personnel may be required results from the fact that improved procedures in title I of the bill for obtaining custody of suspected drug addicts and the provisions in title III (adding sec. 16A to the Uniform Narcotic Drug Act) under which persons chargeable as vagrants and suspected of being drug addicts would be held in custody while being examined to determine whether they are addicts, are likely to produce a patient load at certain times considerably larger than has been the case in the past.

Amendment No. 4 eliminates from the definition of "dangerous drugs" those drugs which the Commissioners may include under the act which they find to be "harmful." In lieu of this uncertain standard, there is inserted the provision that they may include drugs which they find to be habit forming or excessively stimulating or to have a dangerously toxic effect.

Amendment No. 5 eliminates from the Dangerous Drug Act the sweeping provision that would have included all prescription drugs.

Amendment No. 9 would include within the definition of "Manufacturer" of dangerous drugs persons who "repackage such drugs."

Amendment No. 15 revises section 204, relating to the exemption of compounds, mixtures and preparations of dangerous drugs by the Commissioners. The amended section lays down standards for the Commissioners in taking such action. To exempt barbiturate compounds, etc., they must find that they have no habit-forming properties and that they have no dangerously toxic or hypnotic or somnifacient effect on the body of a human or animal. To exempt amphetamine compounds, etc., they must find that they contain, in addition to the amphetamine, some other drug causing the compound to possess other than an excessively stimulating effect upon the central nervous system and to have no habit-forming properties or dangerously toxic effect upon the body of a human or animal.

Amendment No. 21 amends section 206 which sets forth the record-keeping and inventory requirements for dangerous drugs. The persons affected by section 206 are defined in sections 205 and 206 (a). The effect of the amendment is to require inventory and record-keeping by the persons affected by this section, as to all dangerous drugs, as defined in section 202, except those drugs which may be exempted by the Commissioners pursuant to section 204. Section 204 sets forth the drugs which may be exempted from the definition in section 202. This simply means that section 204 creates the method by which the Commissioners may remove from section 202 any barbiturates or amphetamines which are found not to be habit-

forming, hypnotic, somnifacient, dangerously toxic or excessively stimulating. Hence, if, pursuant to section 204 any drugs are excluded from section 202 coverage, such drugs would not be subject to the recordkeeping provisions of section 206.

Amendment No. 24 would eliminate language permitting Federal enforcement officials to inspect prescriptions and other records required by the Dangerous Drug Act to be kept and the stores of drugs regulated by the act. Provisions permitting District officials to make such inspections are retained in the bill.

Amendment No. 27 makes the Dangerous Drug Act (title II) effective 90 days after enactment, so that there will be sufficient time in which to make regulations to take effect when the act takes effect, and to take other preliminary steps incident to putting the act into operation.

Changes in Existing Law

In compliance with paragraph 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

[PUBLIC LAW 76—83D CONGRESS

[CHAPTER 149—1ST SESSION

[H. R. 3307

[AN ACT To provide for the treatment of users of narcotics in the District of Columbia.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the purpose of this Act is to protect the health and safety of the people of the District of Columbia from the menace of drug addiction and to afford an opportunity to the drug user for rehabilitation. The Congress intends that Federal criminal laws shall be enforced against drug users as well as other persons, and this Act shall not be used to substitute treatment for punishment in cases of crime committed by drug users.

[DEFINITIONS

[SEC. 2. For the purposes of this Act—

[(1) The term "drug user" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

[(2) The term "patient" means a person with respect to whom there has been filed with the clerk of the United States District Court for the District of Columbia a statement as provided for in section 3.

[FILING A STATEMENT

[SEC. 3. (a) Whenever it appears to the United States attorney for the District of Columbia that any person within the District of

Columbia, other than a person referred to in subsection (b), is a drug user, he may file with the clerk of the United States District Court for the District of Columbia a statement in writing setting forth the facts tending to show that such a person is a drug user.

[(b) The United States attorney shall not file a statement under this section with respect to any person who is charged with a criminal offense, whether by indictment, by information, or who is under sentence for a criminal offense, whether he is serving the sentence, or is on probation or parole, or has been released on bond pending appeal.

[COURT ORDER FOR EXAMINATION

[SEC. 4. Upon the filing of such a statement, the court shall order the patient to appear before it for an examination by physicians pursuant to section 6 (a) of this Act and for a hearing if required under section 7 of this Act. The copy of the statement and order of the court shall be served personally upon the patient by the United States Marshal.

[RIGHT TO COUNSEL

[SEC. 5. A patient shall have the right to the assistance of counsel at every stage of the judicial proceeding under this Act. Before the court appoints physicians pursuant to section 6 of this Act it shall advise the patient of his right to counsel and shall assign counsel to represent him if the patient is unable to obtain counsel.

[EXAMINATIONS BY PHYSICIANS

[SEC. 6. (a) When such a statement has been filed the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination the court may order the patient committed for such reasonable period as the court may determine to a suitable hospital or other facility to be designated by the court. Each physician shall, within such periods as the court may direct, file a written report of the examination, which shall include a statement of his conclusion as to whether the patient is a drug user.

[(b) The counsel for the patient may inspect the reports of the examination. No such report and no evidence resulting from the personal examination of the patient or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under this Act.

[WHEN HEARING IS REQUIRED

[SEC. 7. If, in a report filed pursuant to section 6 of this Act, either of the examining physicians states that the patient is a drug user, or that he is unable to reach any conclusion by reason of the refusal of the patient to submit to thorough examination, the court shall conduct a hearing in the manner provided in section 8 of this Act. If, on the basis of the reports filed, the court is not required to conduct such a hearing, it shall enter an order dismissing the proceeding under this Act. If a hearing is deemed necessary, then such notice of hearing shall be served personally upon the patient to afford the said patient the opportunity to prepare for the hearing.

[HEARING

[SEC. 8. Upon the evidence introduced at a hearing held for that purpose the court shall determine whether the patient is a drug user. The hearing shall be conducted without a jury unless, before the hearing and within fifteen days after the date on which the second report is filed pursuant to section 6 of this Act, a jury is demanded by the patient or by the United States Attorney. The patient may, after appointment or employment of counsel, waive a hearing and be committed directly to a hospital designated by the Commissioners of the District of Columbia, or their designated agent. The rules of evidence applicable in judicial proceedings in the court are applicable to hearings pursuant to this section, including the right of the patient to present evidence in his own behalf and to subpena and cross-examine witnesses.

[CONFINEMENT OF PATIENT

[SEC. 9. If the court finds the patient to be a drug user, it may commit him to a hospital designated by the patient or the Commissioners of the District of Columbia, or their designated agent, and approved by the court, to be confined there for rehabilitation until released in accordance with section 10 of this Act. The head of the hospital shall submit written reports, within such periods as the court may direct, but no longer than six months after the commitment and for successive intervals of time thereafter, and state reasons why the patient has not been released.

[RELEASE OF PATIENT

[SEC. 10. (a) When the head of the hospital to which the patient is committed finds that the patient appears to be no longer in need of rehabilitation, or has received maximum benefits, they shall give notice to the judge of the committing court, and the said patient shall be delivered to the said court, for such further action as the court may deem necessary and proper under the provisions of this Act.

[(b) The court, upon petition of the patient after confinement for one year, shall inquire into the refusal or failure of the head of the hospital to release him. If the court finds that the patient is no longer in need of care, treatment, guidance, or rehabilitation, or has received maximum benefits, it shall order the patient released, in accordance with the provisions of section 11 of this Act.

[PERIODIC EXAMINATIONS OF RELEASED PATIENTS

[SEC. 11. For the two years after his release, the patient shall report to the Commissioners of the District of Columbia, or their designated agent, at such times and places as those officers, or officer, require, but not more frequently than once each month, for a physical examination to determine whether the patient has again become a drug user. If the Commissioners of the District of Columbia, or their designated agent, determine that the person examined is a drug user, they shall so notify the United States attorney for the District of Columbia who may then file a statement under section 3 of this Act with respect to the person examined.

[PATIENT NOT DEEMED A CRIMINAL

[SEC. 12. The patient in any proceeding under this Act shall not be deemed a criminal and the commitment of any such patient shall not be deemed a conviction.

[SEC. 13. This Act shall become effective six months after the date of its approval.]

SHORT TITLE

SECTION 1. This Act may be cited as the "Hospital Treatment for Drug Addicts Act for the District of Columbia".

PURPOSE

SEC. 2. The purpose of this Act is to protect the health and safety of the people of the District of Columbia from the menace of drug addiction and to afford an opportunity to the drug user for rehabilitation. The Congress intends that Federal criminal laws shall be enforced against drug users as well as other persons, and this Act shall not be used to substitute treatment for punishment in cases of crime committed by drug users.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) The term "drug user" means any person, including a person under eighteen years of age, notwithstanding the provisions of the Juvenile Court Act of the District of Columbia, as amended, who uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) The term "narcotic drugs" shall have the same meaning as that given to such term by section 4731 of the Internal Revenue Code of 1954.

(c) The term "patient" means any person ordered to appear before the Commissioners, pursuant to the provisions of section 4 of this Act.

(d) The term "Commissioners" means the Commissioners of the District of Columbia, sitting as a Board, or their designated agent or agents.

ORDER OF EXAMINATION

SEC. 4. (a) Whenever the Commissioners have probable cause to believe that any person within the District of Columbia, other than a person referred to in subsection (b) hereof, is a drug user, they forthwith shall order any law enforcement officer of the District of Columbia to bring that person before them, to conduct a preliminary examination, and if they find sufficient evidence of addiction, as hereinbefore defined, they shall cause that person to be placed in an institution to be designated by them for an examination by physicians pursuant to section 5 of this Act.

(b) The Commissioners shall not order any person brought before them if the said person is charged with a criminal offense, whether by indictment, information, or otherwise, or if the said person is under sentence for a criminal offense, whether he is serving the sentence, or is on probation or parole, or has been released on bond pending appeal.

EXAMINATION BY PHYSICIAN

SEC. 5. (a) Whenever the Commissioners order a patient into an institution pursuant to the provisions of section 4 hereof, they shall immediately appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the said patient, and within five days after such appointment, each physician shall file with the United States Attorney for the District of Columbia, a written report of such examination, which shall include a statement of his conclusion as to whether the patient is a drug user.

(b) The United States Attorney for the District of Columbia shall review the facts and circumstances of each case submitted to him and present by petition those in which he feels justification exists in the public interest to the United States District Court for the District of Columbia for determination and disposition, or dismiss the patient from custody. A copy of such petition shall be served on the patient in open court, at which time the court shall set a hearing date and advise the patient of his right to counsel and his right to demand within five days a trial by jury.

WHEN HEARING IS REQUIRED

SEC. 6. If, in a report filed pursuant to section 5 of this Act, either of the examining physicians states that the patient is a drug user, or that he is unable to reach any conclusion by reason of the refusal of the patient to submit to thorough examination, the court shall conduct a hearing upon petition of the United States Attorney in the manner provided in section 8 of this Act.

RIGHT TO COUNSEL

SEC. 7. (a) A patient shall have the right to the assistance of counsel at every stage of the judicial proceeding under this Act, and the court shall assign counsel to represent him if the patient is unable to obtain counsel.

(b) The counsel for a patient may inspect the reports of the examination made pursuant to the authority contained in section 5 of this Act. No such report and no evidence resulting from such personal examination or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under this Act.

(c) The patient may, prior to the examination made pursuant to the provisions of section 5 of this Act or prior to the hearing provided for by section 8 of this Act, waive his rights to an examination, to counsel, or to such hearing, and voluntarily submit himself to commitment pursuant to the provisions of this Act.

HEARING

SEC. 8. (a) Upon the evidence introduced at a hearing held for that purpose the court shall determine whether the patient is a drug user. The hearing shall be conducted without a jury unless, before such hearing and within five days after the date on which the petition is filed pursuant to section 5 of this Act, a jury is demanded by the patient or by the United States attorney for the District of Columbia. Each patient concerning whom a report is filed shall be detained at such place as the Commissioners may designate until the completion of such hearing or until released as provided in section 5 (b) hereof.

(b) The rules of evidence applicable in civil judicial proceedings shall be applicable to hearings pursuant to this section, including the right of the patient to present evidence in his own behalf and to subpena and cross-examine witnesses. However, no patient examined pursuant to the provisions of this Act, shall be permitted at any hearing ordered pursuant to this section to object to the submission of testimony concerning such examination on the ground of privilege.

CONFINEMENT OF PATIENT

SEC. 9. If the court finds the patient to be a drug user, it may commit him to a hospital designated by the patient or the Commissioners and approved by the court, to be confined there for rehabilitation until released in accordance with section 10 of this Act. In the event a patient elects to designate a hospital to which he wishes to be committed, he shall be required to satisfy the court that such hospital has medical, rehabilitation, and security facilities comparable to the institutions designated by the Commissioners and, in addition, the cost of such hospitalization shall be borne by the patient. The head of the hospital shall submit written reports within such periods as the court may direct, but no longer than six months after the commitment and for successive intervals of time thereafter, and state reasons why the patient has not been released.

RELEASE OF PATIENT

SEC. 10. (a) When the head of the hospital to which the patient is committed finds that the patient appears to be no longer in need of confinement for treatment purposes, or has received maximum benefits, he shall give notice to the judge of the committing court, and said patient shall be delivered to the said court for such further action as the court may deem necessary and proper under the provisions of this Act.

(b) The court, upon petition of the patient after confinement for one year, shall inquire into the refusal or failure of the head of the hospital to release him. If the court finds that the patient is no longer in need of care, treatment, guidance, or rehabilitation, or has received maximum benefits, it shall order the patient released, in accordance with the provisions of section 11 of this Act.

PERIODIC EXAMINATION OF RELEASED PATIENTS

SEC. 11. (a) For two years after his release, the patient shall report to the Commissioners at such times and places as required, for a physical examination to determine whether the patient has again become a drug user. If the Commissioners determine that the person examined is a drug user, they shall then order the patient into an institution in accordance with the provisions of this Act.

(b) Upon the failure of any patient to report in accordance with the provisions of subsection (a) hereof, the United States attorney for the District of Columbia shall be notified of such failure, and a statement of such failure to report shall be filed with the court. The court shall issue an attachment for the patient and order him confined forthwith for examination and such further action as the court may deem necessary and proper under the provisions of this Act.

PATIENT NOT DEEMED A CRIMINAL

SEC. 12. The patient in any proceedings under this Act shall not be deemed a criminal and the commitment of any such patient shall not be deemed a conviction.

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52 STAT. 785, CHAPTER 532, DISTRICT OF COLUMBIA CODE 33–401, SECTION 1

The following words and phrases, as used in this Act, shall have the following meanings, unless the context otherwise requires:

(a) "Person" includes any corporation, association, copartnership, or one or more individuals.

(b) "Physician" means a person authorized by law to practice medicine or osteopathy in the District of Columbia.

(c) "Dentist" means a person authorized by law to practice dentistry in the District of Columbia.

(d) "Veterinarian" means a person authorized by law to practice veterinary medicine in the District of Columbia.

(e) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process produces or prepares narcotic drugs to be sold or dispensed on prescription.

(f) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared on official written orders but not on prescription.

(g) "Apothecary" means a licensed pharmacist as defined by the laws of the District of Columbia and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him by the pharmacy laws of the District of Columbia.

(h) "Hospital" means an institution or clinic for the care and treatment of the sick and injured, approved by the health officer of the District of Columbia as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(i) "Laboratory" means a laboratory approved by the health officer of the District of Columbia as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(j) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(k) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(l) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium.

(m) "Cannabis" includes all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including specifically the drugs known as American hemp, marihuana, Indian hemp or hasheesh, as used in cigarettes or in any other articles, compounds, mixtures, preparations, or products whatsoever, but shall not include the mature stalks of such plant; fiber produced from such stalks; oil or cake made from the seeds of such plant; any compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, (except the resin extracted therefrom); fiber, oil or cake; or the sterilized seed of such plant which is incapable of germination.

[(n) "Narcotic drugs" means coca leaves, opium, cannabis, and every substance not chemically distinguishable from them.]

(n) "Narcotic drugs" means coca leaves, opium, cannabis, isonipecaine, and opiate, and every substance not chemically distinguishable from them, and any compound, manufacture, salt, derivative, or preparation of coca leaves, opium, cannabis, isonipecaine, or opiate, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

[(o) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, cannabis, and other narcotic drugs.]

(o) "Federal narcotic laws" means the laws of the United States and the regulations promulgated thereunder relating to opium, coca leaves, cannabis, and other narcotic drugs.

(p) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by Federal law and, if no such order form is provided, then on an official form provided for that purpose by the Board of Pharmacy.

(q) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(r) "Registry number" means the number assigned to each person registered under the Federal narcotic laws.

(s) "Board of Pharmacy" means the Board of Pharmacy of the District of Columbia as provided by Act of Congress approved May 7, 1906, as amended (D. C. Code of 1929, title 20, part 3, sec. 198).

(t) "Isonipecaine" and "opiate" shall have the same meaning as that given to such terms by section 4731 of the Internal Revenue Code of 1954.

SEC. 2. *(a)* It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this Act.

(b) Arrests without a warrant, and searches of the person and seizures pursuant thereto, may be made for a violation of subsection (a) hereof by police officers, as in the case of a felony, upon probable cause that the person arrested is violating such subsection at the time of his arrest.

(c) No evidence discovered in the course of any such arrest, search, or seizure authorized by subsection (b) hereof, shall be admissible in any criminal proceeding against the person arrested unless at the time of such arrest he was violating the provision of this section.

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SEC. 5. An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be unlawful for a manufacturer or wholesaler to sell, barter, exchange, or give away any preparation or remedy described in [section 6 of the Act of Congress approved December 17, 1914, entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes", as amended,] *in section 4702 of the Internal Revenue Code of 1954* which contains not more than two grains of opium, or not more than one-fourth of a grain of morphine, or not more than one-eighth of a grain of heroin, or not more than one grain of codeine, or any salt or derivative of any of them in one fluid or avoirdupois ounce, except in pursuance of a written order, on a form to be issued in blank by the District of Columbia Board of Pharmacy. Every person who shall accept any such order, and in pursuance thereof shall sell, barter, exchange, or give away any of the aforesaid preparations shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer or agent authorized for that purpose.

The Board of Pharmacy shall cause suitable written order forms to be prepared for the purchase of narcotics for which no form is provided by the United States Commissioner of Narcotics, and shall cause the same to be for sale by said Board [at a cost not to exceed $1 a hundred,] *at cost* to those persons who shall have registered under the Federal narcotic laws. The Board of Pharmacy shall keep an account of the number of forms sold and the names and addresses of the purchasers and the serial numbers of such forms sold to each purchaser. Whenever the Board of Pharmacy shall sell any such forms it shall cause the name and address of the purchaser thereof to be plainly written or stamped thereon before delivering the same. The said Board is authorized and directed to make such rules and regulations, not inconsistent with law, as it may deem necessary for the administration and enforcement of this Act.

It shall be deemed a compliance with this section if the parties to the transaction have complied with the Federal narcotic laws respecting official order forms if such order forms are authorized and required by Federal laws, or, if no such order form is [provided, then with the rules and regulations of the Board of Pharmacy respecting official order forms.] *required by Federal law and if no such order form is available for purchase as provided in the preceding paragraph of this section, then the parties to the transaction shall comply with the rules and regulations made pursuant to this Act respecting official order forms and such other records as may be required.*

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SEC. 8. (a) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a phy-

sician, dentist, or veterinarian, dated and signed, in ink or indelible pencil, on the day when issued, by the physician, dentist, or veterinarian prescribing said narcotic drugs. The prescription when issued shall also state the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the Federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. [The prescription shall be retained on file by the proprietor of the pharmacy in which it is filed for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. The prescription shall not be refilled.]

(b) An apothecary, in good faith, may sell and dispense on oral prescription of a physician, dentist, or veterinarian such narcotic drugs or compounds thereof as are found by the Secretary of the Treasury or his delegate, pursuant to section 4705 (c) (2) of the Internal Revenue Code of 1954, to possess relatively little or no addiction liability. The oral prescription shall be reduced to a written record by the apothecary before filling, with said written record containing the same information as is required by law or regulation in the case of a written prescription except for the requirement of the written signature of the prescriber.

(c) A written prescription or a written record of an oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the endorcement of this Act. The prescription shall not be refilled.

[(b)] *(d)* The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

[(c)] *(e)* An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20 per centum of the complete solution, to be used for medical purposes.

SEC. 9. (a) A physician or a dentist, in good faith and in the course of his professional practice only, [may prescribe in writing] *may prescribe by a written or oral prescription* administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision. [Such a prescription] *Each written prescription* shall be dated and signed by the person prescribing on the day when issued and shall bear the full name and address of the patient for whom the narcotic drug is prescribed and the full name, address, and registry number under the Federal narcotic laws of the person prescribing, provided he is required by those laws to be so registered. *In issuing an oral prescription, the physician or dentist shall furnish the apothecary with the same information as is required by law or regulation in the case of a written prescription for narcotic drugs and compounds, except for the requirement of the written signature of the prescriber.*

(b) A veterinarian, in good faith and in the course of his professional practice only and not for use by a human being, [may prescribe in writing] *may prescribe by a written or oral prescription*, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision. [Such a prescription] *Each written prescription* shall be dated and signed by the person prescribing on the day when issued and shall bear the full name and address of the owner of the animal; the species of the animal for which the narcotic is prescribed; and the full name, address, and registry number under the Federal narcotic laws of the person prescribing, provided he is required by those laws to be so registered. *In issuing an oral prescription, the veterinarian shall furnish the apothecary with the same information as is required by law in the case of a written prescription for narcotic drugs and compounds, except for the written signature of the prescriber.*

(c) Nothing contained in subsections (a) and (b) of this section shall be construed as authorizing an oral prescription to be furnished by the physician, dentist, or veterinarian to the apothecary, for a narcotic drug or compound other than those narcotic drugs or compounds determined by the Secretary of the Treasury, or his delegate, pursuant to the provisions of section 4705 (c) (2) of the Internal Revenue Code of 1954, to possess little or no addiction liability.

[(c)] *(d)* Any person who has obtained from a physician, dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

SEC. 10. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

(a) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce or, if a solid or semisolid preparation, in one avoirdupois ounce (1) not more than two grains of opium, (2) not more than one-quarter of a grain of morphine or of any of its salts, (3) not more than one grain of codeine or of any of its salts, (4) not more than one-eight of a grain of heroin or or any of its salts[.] , *(5) not more than one-sixth of a grain of dihydrocodeinone or any of its salts*

(b) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this Act shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

(c) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation containing not in excess of 25 per centum of paregoric, in combination with some drug or drugs which confer upon it medicinal properties other than those possessed by paregoric.

The exemptions authorized by this section shall be subject to the following conditions:

(1) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain in addition to the narcotic drug in it, some drug or drugs conferring upon it medici-

nal qualities other than those possessed by the narcotic drug alone.

Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold to any person, or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold in compliance with the general provisions of this Act.

Manufacturers or wholesalers shall sell tincture opii camphorata, commonly known as paregoric, only in accordance with the provisions of sections 5 and 6 of this Act on official written order forms provided for that purpose by the Board of Pharmacy. It shall be unlawful for any person to bring into or have in his possession for sale in the District of Columbia any paregoric unless an official written order form has been issued therefor. No person shall dispense or sell any paregoric at retail to any person [without a prescription] *without a written prescription* from a duly licensed physician, dentist, veterinarian, or other duly authorized person. Prescriptions shall be retained and filed as provided in section 8.

SEC. 11. (a) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription in accordance with the provisions of subsection (3) of this section. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

(b) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (e) of this section.

(c) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (e) of this section.

(d) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 10 of this Act, shall keep a record showing the quantities and kinds thereof received and sold or disposed of otherwise, in accordance with the provisions of subsection (e) of this section.

(e) The form of records shall be prescribed by the Board of Pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible

from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant Cannabis sativa L., received, or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. [The keeping of a record required by or under the Federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.]

SEC. 12 (a) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling [a prescription] *a written or oral prescription* under this Act, shall alter, deface, or remove any label so affixed.

(b) Whenever an apothecary sells or dispenses any narcotic drug on [a prescription] *a written or oral prescription* issued by a physician, dentist, or veterinarian he shall [affix to] *affix to or place in* the container in which such drug is sold or dispensed a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient, or, if the patient is an animal, the name and address of the owner of the animal, and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed as long as any of the original contents remain.

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SEC. 14. * * *

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[(*h*) The judge or commissioner must insert a direction in the warrant that it be served in the daytime unless the affidavit is positive that the property is in the place to be searched, in which case he must insert a direction that it be served at any time in the day or night.]

(*h*) *The judge or commissioner shall insert a direction in the warrant that it may be served at any time in the day or night.*

* * * * * * *

SEC. 16. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

SEC. 16A. VAGRANCY—NARCOTIC DRUG USER—PENALTIES—CONDITIONS IMPOSED.

(a) The purpose of this section is to protect the public health, welfare, and safety of the people of the District of Columbia by providing safeguards for the people against harmful contact with narcotic drug users who are vagrants within the meaning of this section and to establish, in addition to the Hospital Treatment for Drug Addicts Act for the District of Columbia, further procedures and means for the care and rehabilitation of such narcotic drug users.

(b) For the purpose of this section—

(1) the term 'vagrant' shall mean any person who is a narcotic drug user or who has been convicted of a narcotic offense in the District of Columbia or elsewhere and who—

(A) having no lawful employment or visible means of support realized from a lawful occupation or source, is found mingling with others in public or loitering in any park or other public place and fails to give a good account of himself; or

(B) is found in any place, abode, house, shed, dwelling, building, structure, vehicle, conveyance, or boat, in which any illicit narcotic drugs are kept, found, used, or dispensed; or

(C) wanders about in public places at late or unusual hours of the night, either alone or in the company of or association with a narcotic drug user or convicted narcotic law violator, and fails to give a good account of himself; or

(D) is included within one of the classes of persons defined in paragraphs (1) through (9), inclusive, of section 5 of the Act of December 17, 1941 (55 Stat. 808; D. C. Code, sec. 22–3302), as amended;

(2) the term "narcotic drug user" shall mean any person who takes or otherwise uses narcotic drugs, except a person using such narcotic drug as a result of sickness or accident or injury, and to whom such norcotic drugs are being furnished, prescribed, or administered in good faith by a duly licensed physician in the course of his professional practice.

(c) Whenever any law-enforcement officer has probable cause to believe that any person is a vagrant within the meaning of this section, he is authorized to place that person under arrest and to confine him in any place in the District of Columbia designated by the Commissioners thereof.

(d) Pending arraignment and without unnecessary delay the person arrested as a vagrant within the meaning of this section shall have the opportunity to be examined by a physician designated by the Commissioners of the District of Columbia, who shall determine whether there is evidence of narcotic drug usage.

(e) If the physician designated by the Commissioners of the District of Columbia is satisfied that the person examined is not a narcotic drug user, or if there is insufficient evidence of narcotic drug usage, the United States Attorney shall, if the said person is not otherwise chargeable as a vagrant within the meaning of this section, bring such matter to the attention of the Corporation Counsel for the District of Columbia for determination as to whether there shall be a prosecution under the provisions of the Act of December 17, 1941 (55 Stat. 808; D. C. Code, sec. 23–3302), as amended.

(f) Upon affirmative determination that the person arrested is a narcotic drug user, or if the person has been convicted of a narcotic offense in the District of Columbia or elsewhere, and if such person is also a vagrant as hereinbefore defined, he shall be charged with the offense of vagrancy within the meaning of this section and arraigned in the United States branch of the municipal court, where the prosecution shall be conducted in the name of the United States by the United States attorney.

(g) Any person convicted of being a vagrant under the provisions of this section shall be punished by fine of not more than $500 or imprisonment for not more than one year, or by both such fine and imprisonment.

(h) The court, in sentencing any person found guilty under the provisions of this section, may in its own discretion or upon the recommendation of the probation officer, impose conditions upon the service of any such sentence. Conditions thus imposed by the court may include submission to medical and mental examination, and treatment by proper public health and welfare authorities; confinement at such place as may be designated by the Commissioners of the District of Columbia, and such other terms and conditions as the court may deem best for the protection of the community and the punishment, control, and rehabilitation of the defendant.

(i) In all prosecutions under the provisions of this section, the burden of proof shall be upon the defendant to show that he has lawful employment or has lawful means of support realized from a lawful occupation or source."

[SEC. 17. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

[(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States Commissioner of Narcotics, by the officer who destroys them.

[(b) Upon written application by the Board of Pharmacy, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said Board of Pharmacy for distribution or destruction, as hereinafter provided.

[(c) Upon application by any hospital within the District of Columbia not operated for private gain, the Board of Pharmacy may, in its discretion, deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The Board of Pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States Commissioner of Narcotics, or may destroy the same.

(d) The Board of Pharmacy of the District of Columbia shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to

inspection by all Federal or District of Columbia officers charged with the enforcement of Federal and District narcotic laws.]

SEC. 17. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which come into custody of a peace officer, shall be delivered promptly to the Secretary of the Treasury or his delegate for disposal in accordance with the provisions of section 4733 of the Internal Revenue Code of 1954, except that narcotic drugs which may be needed as evidence in any criminal or administrative proceeding pursuant to the provisions of this Act or the provisions of any Federal narcotic law shall, upon delivery to the Secretary of the Treasury, not be so disposed of until the United States attorney for the District of Columbia or any assistant United States attorney shall certify that such narcotic drugs are no longer needed as evidence.

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[SEC. 23. Any person violating any provision of this Act, or of any regulation made by the Board of Pharmacy under authority of this Act, shall upon conviction be punished, for the first offense, by a fine of not less than $100 nor more than $1,000, or by imprisonment for not exceeding one year, or by both such fine and imprisonment, and for any subsequent offense by a fine of not less than $500 nor more than $5,000, or by imprisonment for not exceeding ten years, or by both such fine and imprisonment.]

SEC. 23. Any person violating any provision of this Act, or any regulation made by the Commissioners of the District of Columbia, under authority of its sections, for which no specific penalty is otherwise provided, shall upon conviction be punished, for the first offense, by a fine of not less than $100 nor more than $1,000, or by imprisonment for not exceeding one year, or by both such fine and imprisonment, and for any subsequent offense by a fine of not less than $500 nor more than $5,000, or by imprisonment for not exceeding ten years, or by both such fine and imprisonment.

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58 STAT. 698, SECTION 341, UNITED STATES CODE 42–257

The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who voluntarily submit themselves for treatment and addicts who have been or are hereafter convicted of offenses against the United States, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant. *Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this Act and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Director of Public Health of the District of Columbia, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person.*

58 STAT. 701, SECTION 344 (d) UNITED STATES CODE 42–260 (d)

Any addict admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment [shall be confidential] *shall, except as otherwise provided by this Act, be confidential.*

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68 STAT. 80, SECTION 345 (a), DISTRICT OF COLUMBIA CODE 24–614 (a)

SEC. 345. (a) The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 321 (b), any addict who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for such care and treatment. No such addict shall be admitted unless [(1) he is committed prior to July 1, 1956; and (2) at the time of his commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than fifty; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.] *(1) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than one hundred; and (2) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.*

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68 STAT. 79, CHAPTER 195, SECTION 1, PUBLIC LAW 355, 83d CONGRESS

SEC. 1. In order to afford the District of Columbia [time to provide] the facilities required to carry out the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), *as amended*, and [in the interim,] to help it meet its responsibility for the detention, care, and treatment of non-criminal narcotic addicts, it is hereby declared to be the purpose of this Act to authorize the limited use of suitable Public Health Service facilities [for a temporary period,] at the expense of the District of Columbia, for such detention, care, and treatment.

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